

**SOVIET LEGISLATION SERIES**

**Fundamentals  
of Soviet Civil Legislation  
and  
Civil Procedure**

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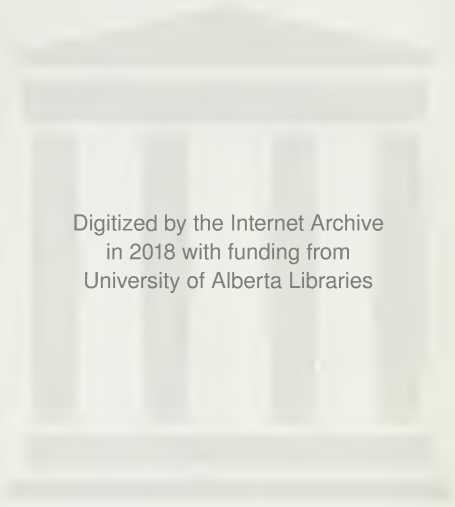
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**Fundamentals of Civil Legislation  
of the U.S.S.R.  
and the Union Republics**

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**Fundamentals of Civil  
Procedure of the U.S.S.R.  
and the Union Republics**

*Official Texts*



**Progress Publishers**

**M O S C O W**

TRANSLATED FROM THE RUSSIAN

ОСНОВЫ СОВЕТСКОГО ГРАЖДАНСКОГО  
ЗАКОНОДАТЕЛЬСТВА И ГРАЖДАНСКОГО  
СУДОПРОИЗВОДСТВА

*На английском языке*

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**FUNDAMENTALS  
OF CIVIL LEGISLATION  
OF THE U.S.S.R.  
AND THE UNION REPUBLICS**





# **FUNDAMENTALS OF CIVIL LEGISLATION OF THE U.S.S.R. AND THE UNION REPUBLICS**

*(Approved by the Supreme Soviet  
of the U.S.S.R.,  
December 8, 1961)*

With the complete and final victory of socialism, the Soviet Union has entered the period of full-scale communist construction.

The tasks of this period are to create the material and technical basis of communism, ensuring material and cultural abundance and the ever fuller satisfaction of the requirements of society and all its citizens; gradually to transform socialist social relations into communist relations; to educate citizens in the spirit of lofty communist ideals, and the communist attitude to labour and social property.

In the period of full-scale communist construction, the economy is based on socialist property in the means of production in the form of state property (property of the whole people) and kolkhoz and co-operative property, the latter gradually drawing closer to the property of the whole people

until the two are integrated in a single communist property in the means of production.

Personal property is a derivative of socialist property and is a means of satisfying the requirements of citizens. With the advance to communism, the personal requirements of citizens will be increasingly satisfied from social funds.

In communist construction, full use is being made of commodity-money relations in keeping with their new content under the planned socialist economy, and use is also made of such important instruments of economic development as economic accounting, money, price, cost, profit, trade, credit, and finance. Communist construction rests on the principle of material incentives for citizens, enterprises, kolkhozes, and other economic organisations.

The Soviet state guides the planned economic development of the U.S.S.R. in accordance with the Leninist principle of democratic centralism, which gives ever freer play to the initiative of enterprises and other organisations in their economic operations and management of property, and extends their powers within the framework of a single national economic plan.

Soviet civil legislation regulates property relations, implying the use of commodity-money relations in communist construction, and the non-property personal relations connected with them.

Soviet civil legislation is an important means of further strengthening the rule of law in the

sphere of property relations and safeguarding the rights of socialist organisations and citizens.

It is the purpose of Soviet civil legislation actively to promote the solution of the tasks of communist construction. It helps to consolidate the socialist system of economy and socialist property, and to develop its forms into one communist property; to enhance planning and contractual discipline, and economic accounting; to ensure timely and proper completion of deliveries, steady improvement of quality, fulfilment of capital construction projects and greater effectiveness of capital investments; to carry out state purchases of agricultural produce; to develop Soviet trade; to safeguard the material and cultural interests of citizens and balance them with those of society as a whole; and to stimulate inventiveness in science and technology, and creativity in literature and the arts.

## PART I

### GENERAL

#### Article 1. *Purposes of Soviet Civil Legislation*

Soviet civil legislation shall regulate property relations and related non-property personal relations for the purpose of creating the material and technical basis of communism and providing

ever fuller satisfaction of the material and spiritual requirements of citizens. In the cases provided for by law, civil legislation shall likewise regulate other non-property personal relations.

Property relations in Soviet society shall be based on the socialist system of economy and socialist property in the means and instruments of production. The economic development of the U.S.S.R. shall be determined and guided by the state national economic plan.

## Article 2. *Relations Regulated by Soviet Civil Legislation*

Soviet civil legislation shall regulate the relations stated in Article 1 of the present Fundamentals:

- between state, co-operative and mass organisations;

- between citizens and state, co-operative and mass organisations;

- between citizens.

Other organisations may also be parties to the relations regulated by Soviet civil legislation, in cases provided for by the legislation of the U.S.S.R.

The civil legislation of the U.S.S.R. and the Union Republics shall not apply to property relations based on the administrative subordination of one party to another, or to tax and budget relations.

Family, labour, and land relations, and also relations within kolkhozes arising from their Rules

shall be regulated respectively by family, labour, land and kolkhoz legislation.

Article 3. *Civil Legislation of the U.S.S.R.  
and the Union Republics*

In accordance with the present Fundamentals, the Civil Codes and other acts of civil legislation of the Union Republics shall regulate property and non-property personal relations, whether or not provided for by the Fundamentals.

In conformity with the present Fundamentals, the civil legislation of the U.S.S.R. shall regulate relations between socialist organisations in delivery of products, and capital construction; relations involving state purchase of agricultural produce from kolkhozes and state farms; relations between organisations in rail, sea, inland waterway, air and pipeline transport and communications, and credit establishments and their clients, and with each other; relations in state insurance; relations arising from discoveries, inventions and technical improvements; and also other relations whose regulation is referred by the Constitution of the U.S.S.R. and the present Fundamentals to the jurisdiction of the U.S.S.R. Within the sphere of these relations, the legislation of the Union Republics may decide matters referred to their jurisdiction by the legislation of the U.S.S.R.

Relations in foreign trade shall be determined by special legislation of the U.S.S.R. regulating

foreign trade, and by the general civil legislation of the U.S.S.R. and the Union Republics.

*Article 4. Grounds from Which Civil Rights and Duties Arise*

Civil rights and duties shall arise from the grounds provided for by the legislation of the U.S.S.R. and the Union Republics, and also from the acts of citizens and organisations which, while not provided for by law, give rise to civil rights and duties in virtue of the general principles and meaning of civil legislation.

Accordingly, civil rights and duties shall arise:

from transactions provided for by law, and also from transactions which, while not provided for by law, do not contradict it;

from administrative acts, including—for state, co-operative and mass organisations—planning acts;

from discoveries, inventions, technical improvements, and the production of scientific, literary and artistic works;

from injury caused to another, and likewise from the acquisition or saving of property at the expense of another, without sufficient grounds thereto;

from other acts of citizens and organisations;

from events to which the law attaches civil legal consequences.

## Article 5. *Exercise of Civil Rights and Performance of Duties*

Civil rights shall be protected by law, except as they are exercised in contradiction to their purpose in socialist society in the period of communist construction.

In exercising their rights and performing their duties, citizens and organisations must observe the laws and respect the rules of socialist community life and the ethical principles of the society building communism.

## Article 6. *Protection of Civil Rights*

Civil rights shall be protected in the established manner by the courts or arbitration or mediation boards by means of: recognition of these rights; restoration of the condition existing prior to the infringement of the right, and arrestment of the acts infringing the right; adjudication of specific performance; termination or modification of legal relation; recovery, from the person infringing the right, of damages caused and, in cases provided for by law or contract, of penalty (fine, penal interest), and also by other means provided for by law.

Civil rights shall also be protected, in the cases and in the manner established by the legislation of the U.S.S.R. and the Union Republics, by comrades' courts, and trade union and other mass organisations.

In cases specifically prescribed by law, civil rights shall be protected administratively.

#### Article 7. *Protection of Honour and Dignity*

Citizens and organisations shall have the right to sue at law for retraction of statements defamatory to their honour and dignity, where the person circulating such statements fails to prove them to be true.

Where such statements are circulated through the press, they must, if found untrue, be retracted also in the press. The manner of retraction in other cases shall be established by the court.

Where the court judgement has not been carried out, the court may order the wrongdoer to pay a fine which shall be collected for the benefit of the state. Payment of fine shall not relieve the wrongdoer from the duty to perform the act prescribed by the court judgement.

#### Article 8. *Legal Capacity and Legal Ability of Citizens*

The capacity of having civil rights and duties (civil legal capacity) shall belong equally to all citizens of the U.S.S.R. The citizen's legal capacity shall begin at birth and cease at death.

The citizen's full capacity by his acts to acquire civil rights and to create for himself civil duties (civil legal ability) shall arise at majority, i.e., upon his attainment of the age of eighteen years. The limited legal ability of minors, and also



the cases and the manner of limiting the legal ability of adults, shall be determined by the legislation of the U.S.S.R. and the Union Republics.

No one may be restricted in legal capacity or legal ability, except in the cases and in the manner established by law. Legal transactions seeking to limit legal capacity or legal ability shall be void.

### Article 9. *Content of Legal Capacity of Citizens*

Citizens may, in conformity with the law, hold property in personal ownership; use dwelling-premises and other property; inherit and bequeath property; choose their occupation and place of residence; have the rights of the author of a work of science, literature and art, discovery, invention and technical improvement, and also have other property and non-property personal rights.

### Article 10. *Declaring a Citizen Absent or Dead*

A citizen may be declared absent, in a judicial proceeding, where no information concerning his whereabouts is available at the place of his permanent domicile for a period of one year.

A citizen may be declared dead, in a judicial proceeding, where no information concerning his whereabouts is available at the place of his permanent domicile for a period of three years; where he was missing in circumstances of mortal danger or circumstances warranting the presump-

tion of his death in a definite accident, the period shall be six months.

A member of the armed forces or any citizen missing in connection with hostilities may be declared dead, in a judicial proceeding, not before the expiration of a period of two years from the day of termination of hostilities.

In the event of reappearance or discovery of the whereabouts of a citizen declared absent or dead, the pertinent declaration shall be annulled by the court. The restoration of the citizen's property rights shall be effected in accordance with the legislation of the Union Republics.

### Article 11. *Juridical Persons*

Organisations as possess separate property and may in their own name acquire property and non-property rights and assume duties, and appear as plaintiffs and defendants in a court of law or before an arbitration or mediation board shall be deemed to be juridical persons.

Juridical persons shall be:

state enterprises and other state organisations operating for their own account, having fixed and circulating assets assigned to them and a separate balance sheet; establishments and other state organisations financed from the state budget and having separate estimates, and whose executives are authorised to dispose of credits (except as provided for by law); state organisations financed from other sources and having separate estimates and a separate balance sheet;

kolkhozes, inter-kolkhoz and other co-operative and mass organisations and their associations and, in cases provided for by the legislation of the U.S.S.R. and the Union Republics, enterprises and establishments of these organisations and their associations with separate property and a separate balance sheet;

state-kolkhoz and other state-co-operative organisations.

Juridical persons shall operate on the basis of their rules (statute). Establishments and other state organisations on the state budget and, in cases provided for by the legislation of the U.S.S.R. and the Union Republics, other organisations as well may operate under a general statute for organisations of this type.

The establishments and other state organisations on the state budget enumerated in the present Article shall, in cases provided for by the legislation of the U.S.S.R. and the Union Republics, operate either on behalf of the U.S.S.R. or a Union Republic.

## Article 12. *Legal Capacity of Juridical Persons*

Juridical persons shall have civil legal capacity in accordance with the established purposes of their activity.

The rights and duties of economic organisations connected with the use of firm names, trade marks and trade signs shall be determined by the legislation of the U.S.S.R.

### Article 13. *Liability of Juridical Persons for Their Obligations*

Juridical persons shall be liable for their obligations in the property they own (and state organisations, in the property assigned to them) which, in accordance with the legislation of the U.S.S.R. and the Union Republics, is subject to attachment.

The state shall not be liable for the obligations of state organisations which are juridical persons, nor shall these organisations be liable for the obligations of the state.

The terms and procedure governing the allocation of funds to discharge the debts of establishments and other state organisations on the state budget, where such debts cannot be covered from their own estimates, shall be established by the legislation of the U.S.S.R. and the Union Republics.

### Article 14. *Legal Transactions*

Acts of citizens and organisations designed to establish, modify or terminate civil legal rights or duties shall be deemed to be legal transactions.

Legal transactions may be unilateral, bilateral or multilateral (contracts).

Legal transactions not conforming to the requirements of the law shall be invalid.

Failure to conform to the form prescribed by law shall entail invalidation of the legal transaction only where such consequence is expressly provided for by law. Non-compliance with the form of foreign trade transactions and the procedure governing their signature (Article 125 of the present Fundamentals) shall entail invalidation of the transaction.

Where a transaction is invalid, each of the parties shall restore to the other everything received under the transaction, and where the things received in kind cannot be restored, their value shall be compensated in cash, unless the law prescribes other consequences of invalidation of the transaction.

Where the legal transaction is made for a purpose known to be contrary to the interests of the socialist state and society and where there is intent on the part of both parties—in the event of both parties performing the transaction—all that was received by them under the transaction shall be collected for the benefit of the state, and in the event of performance of the transaction by one party, all that was received by the other party and that which was due from the other party to the first party in compensation for that which was received shall be collected for the benefit of the state; where there is intent on the part of only one party, all that was received by that party under the transaction shall be returned to the other party, and that which was received by the latter party or that which was due to that party in com-

pensation of that which was performed shall be collected for the benefit of the state.

### Article 15. *Agency*

A transaction performed by one party (the agent) in the name of another party (the principal) in virtue of powers based on the power-of-attorney, law or administrative act, shall immediately establish, modify and terminate the civil rights and duties of the principal.

### Article 16. *Statute of Limitations*

The general period for action to enforce the right of the party aggrieved (statute of limitations) shall be three years; for action brought by state organisations, kolkhozes and other co-operative and mass organisations against each other, the period shall be one year.

For some types of claims arising from relations whose regulation is referred to the jurisdiction of the U.S.S.R. shorter periods of limitation may be established by the legislation of the U.S.S.R., and for other claims, by the legislation of the Union Republics.

The running of the period of limitation shall commence with the accrual of the right to sue; the right to sue shall accrue from the day the person learns, or should have learned, of the infringement of his right. Exceptions to this rule, and also the grounds for interruption and suspension

of the running of periods of limitation, shall be established by the legislation of the U.S.S.R. and the Union Republics.

The courts and arbitration or mediation boards shall take cognisance of claims for the protection of infringed rights regardless of the expiration of the period of limitation. The courts and arbitration or mediation boards shall apply the statute of limitations irrespective of the motions of the parties. Where the court or arbitration or mediation board finds that the reason for the delay in bringing an action before the expiration of the period of limitation is valid, the infringed right shall be subject to protection.

#### Article 17. *Claims to Which the Statute of Limitations Does Not Apply*

The statute of limitations shall not apply to:  
claims arising from infringement of non-property personal rights, except in cases provided for by law;

claims by organisations for the recovery of state property from the unlawful possession of kolkhozes and other co-operative and mass organisations or citizens;

claims by depositors for payment of deposits made in labour-savings state banks and in the State Bank of the U.S.S.R.;

other claims, in the cases provided for by the legislation of the U.S.S.R.

Article 18. *Application of the Civil Legislation of One Union Republic in Another Union Republic*

The civil legislation of one Union Republic shall apply in another Union Republic in accordance with the following rules:

1) relations arising from the right in property shall be subject to the law of the place where the property is located;

2) in the conclusion of transactions, legal capacity and legal ability shall be determined by the law of the place where the transaction is concluded;

3) the form of transaction shall be determined by the law of the place where the transaction is concluded; the obligations arising from a transaction shall be subject to the law of the place where the transaction is concluded, unless otherwise provided for by law or agreement of the parties;

4) obligations arising from injury caused to another shall be subject to the law of the place where the dispute is decided; at the request of the party aggrieved, the law of the place where the injury was caused shall apply;

5) relations arising from succession shall be subject to the law of the place of opening of succession;

6) matters of the statute of limitations shall be decided in accord with the law of the Union Republic whose legislation regulates the given relation.



## PART II

### LAW OF PROPERTY

#### Article 19. *Powers of the Owner*

The owner shall have the powers of possession, use and disposal of property within the limits established by law.

#### Article 20. *Socialist Property*

State property (property of the whole people); the property of the kolkhozes and other co-operative organisations and their associations; the property of mass organisations shall be socialist property.

#### Article 21. *State Property*

The state shall be the sole owner of all state property.

State property assigned to state organisations shall be in the operative management of these organisations which shall exercise, within the limits established by law and in accordance with the aims of their activity, planned assignments and the designated purpose of the property, the powers of possession, use and disposal of the property.

Land, minerals, waters, forests, factories, mines, electric power stations; railway, water, air and motor transport; banks, means of communication, state-organised agricultural, commercial, public utility and other enterprises; and also the basic housing facilities in the towns and in urban-type estates shall be the property of the state. Any

other property may also be in the ownership of the state.

Land, minerals, waters and forests, being the exclusive property of the state, may be made available only for use.

## Article 22. *Disposal and Attachment of State Property*

The procedure governing the transfer of state enterprises, buildings, structures, plant and other property, constituting the fixed assets of state organisations, to other state organisations and also kolkhozes and other co-operative and mass organisations shall be determined by the legislation of the U.S.S.R. and the Union Republics.

State enterprises, buildings and structures shall be transferred from one state organisation to another gratuitously.

The state property indicated in the present Article shall not be subject to alienation to citizens, with the exception of some types of property whose sale to citizens is allowed by the legislation of the U.S.S.R. and the Union Republics.

Enterprises, buildings, structures, plant and other property constituting the fixed assets of state organisations may not be the object of mortgage, nor may they be attached to meet the claims of creditors. Attachment may be applied to other assets, except for the exemptions established by the legislation of the Union Republics, and in respect of cash resources, by the legislation of the U.S.S.R. The procedure governing attachment

to satisfy the claims of credit institutions for repayment of loans granted by them shall be determined by the legislation of the U.S.S.R.

*Article 23. Property of Kolkhozes, Other Co-operative Organisations and Their Associations*

The enterprises of kolkhozes, other co-operative organisations and their associations, their welfare and cultural establishments, buildings, structures, tractors, harvester combines, and other machinery, means of transport, draught animals and productive stock, the goods produced by these organisations and other assets corresponding to the aims of their activity shall be the property of these organisations.

The enterprises, welfare and cultural establishments, buildings, structures, tractors, harvester combines and other machinery, means of transport and other property owned by kolkhozes, other co-operative organisations and their associations and constituting their fixed assets, and also their seed and feed stocks, may not be attached to meet the claims of creditors. Attachment may be applied to other assets, except for the exemptions established by the legislation of the Union Republics and in respect of cash resources, by the legislation of the U.S.S.R. The procedure governing attachment to satisfy the claims of credit institutions for repayment of loans granted by them shall be determined by the legislation of the U.S.S.R.

## Article 24. *Property of Trade Union and Other Mass Organisations*

The enterprises of trade union and other mass organisations, their buildings, structures, sanatoriums, rest homes, palaces of culture, clubs, stadiums and Young Pioneer camps and their equipment, and cultural and educational funds and other assets in keeping with the aims of the activity of these organisations shall be their property.

The enterprises, buildings, structures, equipment and other property constituting the fixed assets of enterprises, sanatoriums, rest homes, palaces of culture, clubs, stadiums and Young Pioneer camps owned by trade union and other mass organisations, and also their cultural and educational funds may not be attached to meet the claims of creditors. Attachment may be applied to other assets, except for the exemptions established by the legislation of the Union Republics, and in respect of cash resources, by the legislation of the U.S.S.R. The procedure governing attachment to satisfy the claims of credit institutions for repayment of loans granted by them shall be determined by the legislation of the U.S.S.R.

## Article 25. *Personal Property*

Property designed to satisfy the material and cultural requirements of citizens may be in their personal ownership. Every citizen may have in his personal ownership income and savings earned by his labour, a dwelling house (or part thereof) and a subsidiary husbandry, household

effects and furnishings and articles of personal use and convenience. The personal property of citizens may not be used to derive unearned income.

Every citizen may have one dwelling house as his personal property. Cohabiting spouses and their minor children may have only one dwelling house which one of them owns by right in personal property, or which they own as common property. The maximum size of dwelling house which may be in the personal ownership of a citizen and the terms and manner of leasing premises in such houses shall be established by the legislation of the Union Republics.

The legislation of the Union Republics shall establish the maximum number of livestock which may be the personal property of a citizen.

A citizen who is a member of a kolkhoz household may not have in his personal ownership any property which, in keeping with the rules of the kolkhoz, may be owned only by a kolkhoz household.

## *Article 26. Common Property*

Property may belong by right in common property to two or more kolkhozes or other co-operative and mass organisations, or to the state and one or more kolkhozes, or other co-operative and mass organisations, or to two or more citizens.

A distinction shall be made between common property held in shares (share property) and

property without demarcation of shares (joint property).

### Article 27. *Property of the Kolkhoz Household*

The property of the kolkhoz household shall belong to its members by right in joint property (Article 26 of the present Fundamentals).

The kolkhoz household may, in keeping with the rules of the kolkhoz, own a subsidiary husbandry on the house-and-garden plot in its use, a dwelling house, livestock, poultry and minor farm implements.

In addition, the kolkhoz household shall own the income conveyed to it by members of the household which they earn by working in the collective economy of the kolkhoz, or any other property conveyed to the household, and also any articles of domestic utility and personal use paid for out of common funds.

The procedure governing possession, use and disposal of the property of the kolkhoz household, and also the separation of the shares of members and the partition of the household shall be established by the legislation of the Union Republics.

### Article 28. *Protection of the Right in Property*

The owner shall have the right to recover his property from the unlawful possession of another.

Where the property has been acquired for value from a person not entitled to alienate it, of which the buyer did not know and was not required to know (holder in good faith), the owner shall have the right to recover his property from the holder only where the property was lost by the owner or by a person into whose possession the property had been conveyed by the owner, or was stolen from either, or in any other way withdrawn from their possession without their knowledge.

Where the property has been acquired gratuitously from a person not entitled to alienate it, the owner shall have the right to recover the property in any case.

State property, and also the property of kol-khozes and other co-operative and mass organisations unlawfully alienated by any means whatsoever may be recovered by the organisations concerned from any holder.

Money and bearer securities may not be recovered from a holder in good faith.

The owner shall have the right to demand that all breaches of his right be remedied, even where such breaches do not involve dispossession.

### Article 29. *Protection of the Rights of Holders Other Than Owners*

The right provided for in Article 28 of the present Fundamentals shall also belong to per-

sons who, while not being owners, are in possession of the property in virtue of law or contract.

Article 30. *Accrual of Title for the Party Acquiring Property Under Contract*

Title for the party acquiring property under contract (and for state organisations—the right of operative management of property) shall arise from the moment the thing is delivered, unless the law or contract provide otherwise.

Delivery is deemed accomplished by handing over the things to the acquiring party, or by handing over the things to a carrier for despatch to the acquiring party, or by deposit with the post office for despatch to the acquiring party of things alienated without obligation to deliver. Delivery of the bill of lading or other warrant shall be deemed equivalent to delivery of the things.

Article 31. *Requisition and Confiscation*

Dispossession of the owner of his property by the state in the state or public interest, with payment to him of the value of the property (requisition), and also the seizure of property by the state without compensation, as a penalty for an offence (confiscation), shall be allowed only in the cases and in the manner established by the legislation of the U.S.S.R. and the Union Republics.



## Article 32. *Ownerless Property*

Property which has no owner or whose owner is unknown (ownerless property) shall revert to the ownership of the state. Ownerless property which belonged to a kolkhoz household shall revert to the ownership of the kolkhoz. The procedure governing transfer of ownerless property to the ownership of the state or the kolkhoz shall be established by the legislation of the Union Republics.

## PART III

### LAW OF OBLIGATION

#### Chapter 1

##### GENERAL

## Article 33. *Obligations and Their Performance*

By virtue of an obligation, one person (the debtor) must perform for the benefit of another (the creditor) a specific act, such as, deliver property, do work, pay money, etc., or abstain from performing a specific act, and the creditor shall have the right to claim from the debtor the performance of his duty.

Obligations arise from contract or from the other grounds specified in Article 4 of the present Fundamentals.

Obligations must be performed in the proper manner and at the specified time, as stated in law, planning act, or contract and, in the absence of such indications, in accordance with the usual requirements.

Unilateral refusal to perform an obligation and unilateral alteration of the terms of the contract shall not be permitted, except in the cases provided for by law.

### *Article 34. Conclusion of Contracts*

A contract shall be deemed concluded when the parties have reached agreement, in the form required by law for the various cases, on all the essential points thereof. The essential points are those which are specified by law or are necessary to the given type of contract, and also all other particulars on which, according to the declaration of either party, agreement is to be reached.

The content of a contract concluded on the basis of a planned assignment must correspond to that assignment.

Disputes between state, co-operative (with the exception of kolkhozes) and other mass organisations arising at the making of a contract based on a planned assignment which is binding on either party shall be decided by the appropriate arbitration (mediation) board, unless the law provides otherwise.

Disputes between the said organisations arising at the making of a contract not based on a

planned assignment which is binding on either party may be decided by an arbitration board, where this is specifically provided for by law or agreement between the parties.

### Article 35. *Securing Performance of Obligations*

Performance of obligations may be secured in accordance with law or contract by means of penalty (fine, penal interest), pledge and surety. In addition, obligations between citizens or with their participation may be secured by means of earnest, and obligations between socialist organisations, by means of guarantee.

### Article 36. *Liability for Breach of Obligations*

In the event of non-performance or improper performance of the obligation by the debtor he must compensate the creditor for the damages caused thereby. Damages are deemed to be the expenses incurred by the creditor, the damage to, or loss of, his property, and also the income which the creditor did not receive but which he would have received had the obligation been performed by the debtor.

Where a penalty (fine, penal interest) is stipulated for non-performance or improper performance of the obligation, damages shall be paid in the amount not covered by the penalty (fine, penal interest).

The law or contract may provide for cases in which only penalty (fine, penal interest) but not

damages may be collected; in which damages may be collected in the full amount over and above the penalty (fine, penal interest); in which the creditor may choose to collect either penalty (fine, penal interest) or damages.

The legislation of the U.S.S.R. and the Union Republics may establish limited liability for non-performance or improper performance of some types of obligations.

Socialist organisations shall make no agreement limiting their liability where the extent of liability for obligations of the given type is specifically stated by law.

Payment of penalty (fine, penal interest) fixed for delay or other improper performance of obligations and payment of damages caused by improper performance shall not relieve the debtor from the specific performance of the obligation, except in cases where the planned assignment on which the obligation between socialist organisations is based has become inoperative.

### *Article 37. Fault as the Condition of Liability for Breach of Obligations*

A person failing to perform an obligation or performing it improperly shall incur material liability for damages (Article 36 of the present Fundamentals) only in the presence of fault (intent or negligence), except in the cases provided for by law or contract. Onus of proving absence of fault shall fall on the person violating the obligation.

Where non-performance or improper performance of an obligation occurs through the fault of both parties, the court, or arbitration or mediation board shall reduce the amount of the debtor's liability accordingly.

### Article 38. *Assigning Performance of Obligation to a Third Party*

Performance of an obligation arising from contract may be assigned, in whole or in part, to a third party, where this is provided for by the established rules or where the third party is connected with one of the parties through administrative subordination or relevant contract.

In that event, liability for non-performance or improper performance of the obligation shall fall on the party to the contract from which it has arisen, provided the legislation of the U.S.S.R. and the Union Republics does not impose liability on the actual performer.

## Chapter 2

### SALE

### Article 39. *Contract for Sale*

By contract for sale, the seller shall undertake to convey the goods to the ownership of the buyer, and the buyer to accept the goods and to pay a definite amount of money therefor.

Where the buyer is a state organisation it shall acquire the right of operative management of the

property (Article 21 of the present Fundamentals).

#### Article 40. *Price*

State, co-operative and mass organisations shall sell goods at the established state prices, except in the cases provided for by the legislation of the U.S.S.R. and, within the limits prescribed by it, by the legislation of the Union Republics.

The sale by kolkhozes of their surplus agricultural produce which is not bought by the state, and also the sale by citizens of their property, shall be effected at prices fixed by agreement of the parties.

#### Article 41. *Liability of the Seller for Improper Quality of the Things Sold*

The quality of the thing sold must be in keeping with the terms of the contract, and in the absence of any stipulation in the contract, with the usual requirements. The thing sold by a trading organisation must correspond to the state standard, technical specifications or samples established for things of this type, unless the contrary follows from the nature of the given sale.

The buyer who has been sold a thing of improper quality, where its defects had not been specified by the seller, may elect to demand either substitution of a thing of proper quality for the thing determined in the contract by generic char-

acteristics or proportionate reduction in the purchase price, or gratuitous removal of the defects of the thing by the seller, or compensation for the expenses incurred by the buyer in repairing them; or rescission of the contract and payment of damages to the buyer.

The manner in which these rights are exercised by a person buying a thing in a retail trading enterprise shall be determined by the legislation of the Union Republics.

Article 42. *Periods for Filing Claims and  
Periods of Limitation for Ac-  
tions over Defects of Things  
Sold*

The periods within which claims may be filed over the defects of a thing sold and also the periods of limitation for action on claims connected with such defects shall be established by the legislation of the Union Republics.

Where, in accordance with Article 48 of the present Fundamentals, guarantee periods are established for things sold through retail trading organisations, such periods shall run from the day of the retail sale. Within the guarantee period, the buyer may file a claim with the seller over the defects of the thing sold hindering its normal use. The seller must ensure gratuitous removal of the defects of the thing or substitute for it a thing of proper quality, or accept it back with repayment to the buyer of the amount paid for it, where he fails to prove that the defects

are due to the buyer's breach of the rules governing the use or safe-keeping of the thing.

### *Article 43. Sale of Goods on Instalment*

Durable goods may be sold to citizens by retail trading enterprises on credit (with payment by instalments) in the cases and in the order established by the legislation of the Union Republics.

Title to goods sold on instalment arises for the buyer in accordance with the rules of Article 30 of the present Fundamentals.

## **Chapter 3**

### **DELIVERY**

### *Article 44. Contract for Delivery*

By contract for delivery, the supplier organisation shall undertake to convey by a definite date or dates to the ownership of the buyer organisation (customer) or, in conformity with Articles 21 and 30 of the present Fundamentals, into its operative management, specified goods in accordance with the planning act of distribution of goods which is binding on both organisations; the customer shall undertake to accept the goods and to pay for them at the established prices. A contract concluded between the organisations at their discretion by which the supplier undertakes to convey to the buyer goods which are not subject to planned distribution within a period not coincident with the moment of the making of the contract shall also be deemed to be contract for delivery.



Delivery of goods without the making of a contract shall be effected only in the cases established by the Council of Ministers of the U.S.S.R. or the Council of Ministers of a Union Republic.

#### *Article 45. Short Delivery or Short Collection*

The quantity of goods short delivered by the supplier or short collected by the customer within the stipulated time must be delivered (collected) in the manner and within the periods specified in the Regulations for Delivery, Special Terms of Delivery of separate types of goods (Article 50 of the present Fundamentals) or contract.

The customer, after notifying the supplier, shall have the right to refuse to accept the goods whose delivery has been delayed, except as the contract provides otherwise. Goods despatched by the supplier before the receipt of notification from the customer must be accepted and paid for by the latter.

#### *Article 46. Assortment of Goods Delivered*

Goods must be delivered in accordance with the assortment specified in the contract.

Delivery of some types of goods listed in the assortment in excess of the quantity specified in the contract shall not be included to cover short delivery of other types of goods, except where such delivery is made with the customer's consent.

For short delivery of some types of goods listed in the assortment, the supplier shall pay

the fixed penalty, even where delivery of the goods in total value has been completed within the period specified by the contract.

#### Article 47. *Quality of Goods Delivered*

The quality of goods delivered must correspond to state standards, technical specifications or samples. Contract may provide for delivery of goods of higher quality than that specified by state standards, approved technical specifications or samples.

In the event of delivery of goods of lower quality than that required by state standards, approved technical specifications or samples, the buyer must refuse to receive or pay for the goods, and where the goods have been paid for by the buyer, the amount paid shall be subject to refund.

However, where the defects of the delivered goods can be removed without returning them to the supplier, the buyer shall have the right to demand of the supplier correction of the defects at the place where the goods are located, or to correct the defects by his own means for the supplier's account.

Where the delivered goods correspond to state standards or technical specifications but prove to be of a lower grade than has been specified, the buyer shall have the right to accept the goods with payment at the price established for goods of the corresponding grade, or to refuse acceptance of, and payment for, the goods.

For actions arising from delivery of goods of improper quality, a six-month period of limitation shall be established to run from the day the buyer discovers, in the proper manner, the existence of defects in the goods delivered to him.

Article 48. *Periods for Filing Claims Over Defects of Delivered Goods*

The periods and procedure for disclosure by the buyer of defects of goods delivered to him which could not be discovered under the usual method of accepting goods, and for presentation to the supplier of claims arising from delivery of goods of improper quality shall be determined by the legislation of the U.S.S.R.

In respect of goods designed for long-term use or storage, state standards or technical specifications may provide longer periods for disclosure by the buyer, in the proper manner, of said defects (guarantee periods) with subsequent presentation to the supplier of claims for removal of these defects or replacement of the goods. The supplier shall gratuitously repair the defects of goods covered by a guarantee period, or replace them, unless he proves that the defects have been caused by the buyer's breach of the rules governing their use or safe-keeping.

Contracts may fix guarantee periods, where such are not provided for by standards or technical specifications, and also longer guarantee periods than those provided for by standards or technical specifications. In respect of consumer

goods sold through retail trading organisations, the running of the guarantee period shall commence from the day of the retail sale of the thing (Article 42 of the present Fundamentals).

*Article 49. Delivery of Goods in Complete Sets*

Goods must be delivered in complete sets, in accordance with the requirements of state standards, technical specifications or price lists. Where completeness is not determined by state standards, approved technical specifications or price lists it may, where necessary, be determined by contract.

In the event of delivery of incomplete sets of goods, the buyer must demand that the sets be completed or that the incomplete sets of goods be replaced, and until the sets are completed or replaced must refuse to pay for them, and where payment has been made, to demand a refund of the amounts paid for them.

Where the supplier fails to complete the sets of goods by the date fixed by agreement of the parties, the buyer shall have the right to reject the goods.

*Article 50. Regulations for Delivery and Special Terms of Delivery. Liability for Breach of Delivery Contract*

Contracts for delivery shall be made and performed in accordance with the Regulations for

Delivery, approved by the Council of Ministers of the U.S.S.R., and the Special Terms of Delivery for Separate Types of Goods, approved in the manner established by the Council of Ministers of the U.S.S.R., and, in the cases provided for by it, by the Councils of Ministers of the Union Republics.

In conformity with these Regulations and Special Terms, breach of contract for delivery shall entail payment of penalty (fine, penal interest) and damages.

In the event of delivery of goods of improper quality or in incomplete sets, the buyer shall collect from the supplier the fixed penalty (fine) and, in addition, damages caused by such delivery without any set-off for the penalty (fine).

## **Chapter 4**

### **STATE PURCHASE OF AGRICULTURAL PRODUCE FROM COLLECTIVE AND STATE FARMS**

#### *Article 51. Contract for Delivery of Agricultural Produce*

State purchase of agricultural produce from collective and state farms shall be made by contracts for delivery of agricultural produce, which are concluded on the basis of plans for state purchase of agricultural produce and plans for the development of agricultural production on collective and state farms.

## Article 52. *Content of Contract for Delivery of Agricultural Produce*

Contracts for delivery of agricultural produce must specify: quantity (by type of produce), quality, delivery dates, order and terms of delivery, and place of delivery of agricultural produce;

the duty of purchasing organisations and enterprises to accept the produce and pay for it at the fixed prices and at the proper time, and also the amounts and the dates of advance cash payments to collective farms;

the duties in helping the collective and state farms to organise the raising of agricultural produce and its transportation to receiving centres and enterprises;

reciprocal material liability of the parties in the event of non-performance of their duties.

Standard contracts for delivery of agricultural produce shall be approved in the manner established by the Council of Ministers of the U.S.S.R.

## Chapter 5

### LEASE

## Article 53. *Contract for Lease of Property*

By contract for lease of property, the lessor shall undertake to make available property for temporary use by the lessee for a reward.

The lessor must convey the property to the lessee in a condition which is in keeping with the terms of the contract and with the designated purpose of the property and must make extensive repairs to the property at his own expense, unless law or contract provides otherwise.

The lessee must make payments for the use of the property at the proper time; use the property in keeping with the contract and with the designated purpose of the property; maintain it in good repair; make current repairs at his own expense, unless otherwise provided for by law or contract; and upon the termination of the contract for lease return the property in the condition in which he had received it, subject to normal wear and tear, or in the condition specified in the contract.

Article 54. *Continuation in Force of Lease Contract Where Property Is Transferred to Another Owner*

Where the title to leased property is transferred from the lessor to another party, the lease contract shall be binding on the new owner. The lease contract shall also continue to be effective where the property is transferred from one state organisation (lessor) to another.

Article 55. *Letting to Hire of Everyday Things*

The terms and manner of letting by state, co-operative and mass organisations to citizens of

household articles, musical instruments, sports goods, passenger cars and other property for temporary use for a price (the letting to hire of everyday things) shall be established by the legislation of the Union Republics.

Standard contracts for the several types of letting to hire of everyday things shall be approved by the Councils of Ministers of the Union Republics. Departures from the terms of the standard contracts limiting the rights of hirers shall be invalid.

## **Chapter 6**

### **LEASE OF HOUSING**

#### *Article 56. Procedure Governing Allocation of Housing and Contract for Lease of Housing*

Allocation of housing in buildings belonging to local Soviets of Working People's Deputies shall be made by the Executive Committee of the local Soviet with the participation of representatives of mass organisations. In buildings belonging to state, co-operative and mass organisations, allocation of housing shall be made by joint decision of the management and the factory or office committee of the trade union, and approved by the Executive Committee of the Soviet of Working People's Deputies, and in the cases provided for by the Council of Ministers of the U.S.S.R., by joint decision of the management and the factory or office committee of the trade union, with subsequent communication to the Executive Committee of the



Soviet of Working People's Deputies concerning the dwelling premises made available for occupation. The use of dwelling premises in houses belonging to local Soviets of Working People's Deputies and in houses belonging to state, co-operative and mass organisations shall be formalised in a lease of housing contract with the house management office concerned.

Contracts for lease of dwelling premises in houses belonging to citizens by right in personal property shall be made between the tenant and the house owner.

Members of the tenant's family who live with him acquire rights and duties arising from the lease contract equally with the tenant.

The contract shall determine the rights and duties of the parties. Articles 53 and 54 of the present Fundamentals shall, wherever relevant, apply to contract for lease of housing.

#### *Article 57. Rent*

Pending the introduction of gratuitous use of housing, the lessee shall pay rent at the proper time.

The amount of rent shall be established by the legislation of the U.S.S.R.

Payment for the use of dwelling space in houses belonging to citizens by right in personal property shall be determined by agreement of the parties but may not be higher than the maximum rates established for such houses by the legislation of the Union Republics.

## Article 58. *Right of the Lessee to Renew the Contract*

Where the contract for lease of housing in a building belonging to the local Soviet of Working People's Deputies or a building belonging to a state, co-operative or mass organisation has been made for a definite period, the lessee, upon the expiration of the term of the contract, shall have the right to renew the contract. This right can be contested by the lessor in a court of law only in the event of the lessee's systematic non-performance of his contractual duties.

The same right shall belong to the lessee of dwelling premises in a house belonging to a citizen by right in personal property, except:

where the lessee lives on premises under a contract made for a period of not more than one year, with an obligation to vacate the premises upon the expiration of that period;

where the court establishes that the house-owner and members of his family require the premises for their own use.

## Article 59. *Modification of Contract for Lease of Housing*

The legislation of the Union Republics may provide for the possibility of withdrawal by the court of excess living space (in excess of the standard space) in the form of a separate isolated room. In such cases, the living-space standard

established by the legislation of the Union Republics may not be less than nine square metres per person. Additional living-space standards shall be established for some categories of lessees.

Surplus isolated rooms in buildings belonging to local Soviets of Working People's Deputies may be withdrawn only where the lessee fails to fill the vacant premises himself within three months after being served a written notice by the housing agency.

Where the surplus isolated room develops in a flat in the use of a single family, the lessee shall have the right either to occupy it, in accordance with the rules of the present Article, or to demand removal to a smaller separate flat.

The legislation of the Union Republics may also establish other cases in which the withdrawal of a surplus isolated room shall not be permitted.

Where a room which is not isolated from the dwelling premises the lessee occupies and which adjoins them is vacated in the flat in which the lessee lives that room shall be conveyed into his use.

#### *Article 60. Rescission of Contract by the Lessee. Exchange and Subletting of Dwelling Premises*

The lessee of dwelling premises shall have the right to rescind the contract at any time.

The lessee of dwelling premises shall have the right to exchange the premises he occupies.

Exchange of dwelling premises in buildings belonging to state, co-operative and mass organisations, and also in buildings belonging to citizens by right in personal property, shall be permitted only with the consent of the lessor. The procedure governing the exchange of dwelling premises shall be established by the legislation of the Union Republics.

The lessee may sublet dwelling premises in the cases and in the manner established by the legislation of the Union Republics.

#### Article 61. *Rescission of Contract by the Lessor*

Contract for lease of housing may not be rescinded and the lessee may not be evicted from the dwelling premises he occupies otherwise than in a judicial proceeding (apart from the exemptions listed in Article 63) and on the grounds established by law.

A lessee evicted on the grounds provided for by law from a building belonging to a local Soviet of Working People's Deputies, or from a building belonging to a state, co-operative or mass organisation, shall be provided by the lessor with other modern dwelling premises, except in the cases specified below.

Where the lessee or members of his family systematically destroy or damage the dwelling premises, or by their constant violation of the rules of socialist community life make it impossible for others to continue joint habitation with

them in the same flat or house, and where warnings and measures of public influence have proved to have no effect, the offenders shall be evicted without provision of other dwelling premises.

The legislation of the Union Republics shall establish the grounds for rescission of the lease contract without provision of other dwelling premises also where the lessee and members of his family are absent for a long time; where the lessee possesses by right in personal property in the same populated locality a dwelling house which is fit for permanent habitation, and which he can occupy; and also where lessees of dwelling premises in buildings belonging to citizens by right in personal property systematically fail to pay rent.

Article 62. *Special Cases of Eviction from  
Buildings Belonging to Enterprises and Establishments*

The Council of Ministers of the U.S.S.R. and the Councils of Ministers of the Union Republics may list the enterprises and establishments in key branches of the economy and under particular departments from whose buildings industrial and office workers who have terminated their labour relations in connection with dismissal at their own request, or for breaches of labour discipline, or for the commission of a crime, may be evicted in a judicial proceeding, without provision of dwelling premises.

However, eviction without provision of dwelling premises in such cases shall not apply to disabled war veterans, Group I and II disabled workers, old-age pensioners, persons receiving a personal pension, the families of persons serving in the Armed Forces of the U.S.S.R., and also the families of servicemen and partisans killed or missing in action in the defence of the U.S.S.R. or in the performance of other duties on military service.

### Article 63. *Eviction by Administrative Order*

Eviction of citizens by administrative order shall not be permitted, except in respect of persons who occupy dwelling premises without authorisation, and also of lessees from buildings threatened with collapse. Lessees evicted from buildings threatened with collapse shall be provided with other modern dwelling premises.

The legislation of the Union Republics may establish the administrative order governing eviction from official buildings, hostels and hotels.

## Chapter 7

### CONTRACTING

#### Article 64. *Contractor's Agreement*

By contractor's agreement, the contractor shall undertake to perform a job at his own risk and

on the instructions of the customer from his own or the latter's materials, and the customer shall undertake to accept and pay for the work performed.

The contractor must take all steps to ensure the safety of the property entrusted to him by the customer and shall be liable for any want of care resulting in damage to, or loss of, the said property.

Article 65. *Rights of the Customer in the Event of Breach of Contract by the Contractor*

Where the contractor departs from the terms of the contract, thereby lowering the quality of the work, or allows any other defects in the job, the customer may elect to demand: gratuitous correction of the defects within an appropriate time, or reimbursement of the customer for the necessary expenses incurred by him in correcting the defects of the work, where the contract provides for such right of the customer, or a corresponding reduction of the reward for the work.

In the presence of essential departures from the contract or other essential defects in the work, the customer shall have the right to demand rescission of the contract and compensation for the damages sustained.

## Article 66. *Rules Governing Contractor's Agreements for the Provision of Everyday Services to Citizens*

The rules governing contractor's agreements for the provision of everyday services to citizens shall be established by the legislation of the Union Republics.

The Councils of Ministers of the Union Republics shall approve standard contracts for the several types of services offered to citizens. Departures from the terms of the standard contracts limiting the rights of customers shall be invalid.

### Chapter 8

#### CONTRACTING FOR CAPITAL CONSTRUCTION

## Article 67. *Contractor's Agreement for Capital Construction*

By contractor's agreement for capital construction, the contractor organisation shall undertake to build at its own cost and expense and to deliver the planned project to the customer organisation, in accordance with the approved estimates and blueprints and within the fixed time, and the customer shall undertake to place at the disposal of the contractor the building site, to provide him with the approved estimates and blueprints, to ensure the proper financing of building operations, and to accept the completed units and to pay for them.



It shall be the duty of the customer to supply the building site with technological, power, electrotechnical and general industrial equipment and apparatuses, except in the cases provided for by special decisions. Special decisions may bind the customer to supply the building site with materials.

#### Article 68. *Prime Contractor and Sub-contractor*

Contractor's agreement for capital construction shall be made by the customer with one building organisation, which, as the prime contractor, shall have the right, on the basis of subcontractor's agreement, to assign fulfilment of separate parts of the work to specialised organisations (Article 38 of the present Fundamentals).

Contract for assembly of equipment shall be made by the customer either with the prime contractor or with the supplier of the equipment.

With the consent of the prime contractor, contracts for assembly or other special operations may be made by the customer with organisations specialising in assembly or other operations.

#### Article 69. *Rights of the Customer*

The customer shall exercise control and technical supervision over the volume, cost and quality of the work being done, in accordance with the estimates and blueprints. He shall have the right at any time to check up on the progress and quality of the building and assembly opera-

tions, and also on the quality of the materials used, without, however, interfering in the contractor's business activity.

Defects in the performance of the work or the materials used in the operations arising through the fault of the contractor (or subcontractor) must be corrected by the contractor at his own expense.

Article 70. *Liability of the Parties for Breach of Contractor's Agreement for Capital Construction*

For non-performance or improper performance of duties under contractor's agreement for capital construction, the party responsible shall pay the established penalty (penal interest), and shall make good, in the amount in excess of the penalty, the damages sustained by the other party in the form of expenses, or damage to, or loss of, his property.

The penalty (penal interest) paid by the contractor for delay in the performance of separate operations shall be refunded to the contractor, where all the operations under the project are completed by the final date fixed by the contract.

Article 71. *Rules Governing Contractor's Agreements for Capital Construction*

Contractor's agreements for capital construction shall be made and performed in accordance with the rules approved by the Council of Minis-

ters of the U.S.S.R. or in the manner it lays down. The legislation of the Union Republics may establish special rules governing contractor's agreements for capital construction in kol-hozes.

## **Chapter 9**

### **CARRIAGE**

#### *Article 72. Contract for Carriage*

By contract for carriage of goods, the carrier (a transport organisation) shall undertake to deliver the goods entrusted to it by the consignor to their destination and issue them to the person authorised to receive them (the consignee), and the consignor shall undertake to pay the fixed charge for the carriage of the goods.

By contract for carriage of passengers, the carrier shall undertake to carry the passenger to his destination and, in the event of the passenger's registering luggage, also to deliver such luggage to its destination, and to issue it to the person authorised to receive the luggage; the passenger shall undertake to pay the fixed fare for the passage, and when registering luggage, also for the carriage of such luggage.

The terms of carriage of goods, passengers and luggage and the liability of the parties in such carriage shall, in conformity with the present Fundamentals, be determined by the statutes (codes) for the several types of transport and by the regulations issued in the established manner.

Article 73. *Plan for the Carriage of Goods and Liability for Its Non-Performance*

Contract for the carriage of goods belonging to state, co-operative and mass organisations shall be made on the basis of the goods haulage plan which is binding on both parties.

Contracts for carriage of goods not provided for by the plan may be made in the manner established by the transport statutes (codes).

The carrier and the consignor shall be held materially liable for failure to supply the means of conveyance, failure to deliver the goods for carriage, and other breaches of duty arising from the goods haulage plan, and also for similar violations in the cases provided for by clause two of the present Article.

Article 74. *Liability of the Carrier for Damage to, and Shortage and Loss of, Goods or Luggage*

The carrier shall be liable for damage to, and shortage and loss of, the goods and luggage he has undertaken to carry, unless he proves that the damage, shortage or loss has not occurred through his fault (Article 37 of the present Fundamentals).

The transport statutes (codes) may provide for cases where onus of proving the carrier at fault for damage to, or shortage or loss of, goods may be placed on the consignor or the consignee.

## Article 75. *Period for Delivery of Goods and Luggage and Liability for Delay*

The carrier must deliver the goods or luggage at the destination within the period established by the transport statutes (codes) or regulations issued in the established manner. Where the period of delivery has not been established in the said manner, the parties shall have the right to stipulate such period in the contract.

The carrier shall be relieved of liability for delay in delivery of goods or luggage, where the delay has not been caused by his fault.

## Article 76. *Claims and Actions Arising from Carriage*

Before an action arising from carriage is brought against the carrier, the claim must be presented to him.

Claims may be filed within a period of six months, and claims for the payment of fines and bonuses, within 45 days. The carrier must examine the claim and notify the claimant concerning the satisfaction or rejection of his claim within three months, and in respect of claims in connection with carriage performed by carriers using different types of transport under one instrument, within six months, and of claims for the payment of fines or bonuses, within 45 days.

Where the claim has been rejected or the reply has not been received within the period

established by the present Article, the claimant shall have two months in which to bring action, from the day of receipt of the reply or the expiration of the period established for the reply.

The carrier shall have six months in which to bring an action, arising from carriage, against the consignors, consignees or passengers.

The period of limitation and the procedure of bringing an action in disputes arising from carriage on foreign service shall be established by the transport statutes (codes) or international agreements.

### *Article 77. Liability of the Carrier for Causing Death or Injury to Health of Passengers*

The carrier's liability for causing death or injury to health of passengers shall be determined by the rules of Chapter 12 of the present Part, unless the law provides for increased liability.

## **Chapter 10**

### **STATE INSURANCE**

### *Article 78. Types of Insurance*

State insurance shall take the form of mandatory and of voluntary insurance.

## Article 79. *Mandatory Insurance*

Property specified by law shall be subject to mandatory insurance on the terms established by the law.

Under mandatory insurance, the insurance agency shall, upon the happening of the event provided by law (the insurable event), reimburse the insurant or a third party to whom the insured property belongs, for the damages sustained by him: to the full insurance amount, where the property is a total loss, and within the limits of the corresponding part of the insurance amount, in the event of partial damage. The insurant shall pay the stipulated insurance premiums.

The types of mandatory personal insurance shall be established by the legislation of the U.S.S.R.

## Article 80. *Contract for Voluntary Insurance*

By contract for voluntary insurance, the insurance agency shall undertake, upon the happening of the event specified in the contract (the insurable event):

in the case of property insurance—to reimburse the insurant or a third party (the beneficiary) for the damages sustained (to pay the insurance compensation) within the limits of the amount fixed by the contract (insurance amount), and where the property has not been insured to its full value, to pay the corresponding part of the

damages, unless otherwise provided for by the insurance rules;

in the case of life and accident insurance—to pay the insurant or a third party (the beneficiary) the insurance amount fixed by the contract, regardless of any amounts due him under state social insurance, or social security, or amounts due by way of reimbursement for damages.

The insurant shall undertake to pay the insurance premiums stipulated by the contract.

Article 81. *Transfer to the Insurance Agency of the Insurant's Rights in Respect of the Person Liable for the Damage Caused*

The insurance agency which has paid the insurance compensation in the case of property insurance shall acquire, within the limits of that amount the right of claim which the insurant (or a third party who has received the insurance compensation) has against the person liable for the damage caused.

Article 82. *Rules of Insurance*

The rules of insurance shall be approved in the manner established by the Council of Ministers of the U.S.S.R.



## Chapter 11

### PAYMENTS AND CREDIT

#### Article 83. *Payments Between Organisations*

Payments in discharge of obligations between state organisations, kolkhozes and other co-operative and mass organisations shall be made by written order to credit institutions in which the said organisations keep their accounts, in accordance with the law. The forms and procedure governing payments shall be determined by the legislation of the U.S.S.R.

Payments in cash between state organisations, kolkhozes and other co-operative and mass organisations shall be permitted only in the cases and within the limits established by the legislation of the U.S.S.R.

#### Article 84. *Disposal of Accounts of Organisations at Credit Institutions*

Organisations shall be authorised to dispose of the cash on their accounts in credit institutions, in accordance with the designated purposes of the funds in question.

Cash necessary for the payment of wages and equated disbursements shall be paid from an organisation's account, regardless of any outstanding claims against the owner of the account. Exemptions from this rule may be established by the Council of Ministers of the U.S.S.R.

Cash on the account of an organisation in a credit institution may be written off without its consent only in the cases provided for by the legislation of the U.S.S.R.

Claims shall be satisfied in the order of priority established by the legislation of the U.S.S.R.

#### *Article 85. Extension of Credits to Organisations*

Extension of credits to state organisations, kolkhozes and other co-operative and mass organisations shall be made in accordance with approved plans through the issue of time loans for a specified purpose by the State Bank of the U.S.S.R. and other banks of the U.S.S.R., in the manner established by the legislation of the U.S.S.R.

Extension of credit by one organisation to another in cash or in goods, including advance payments on account, shall be permitted only in the cases established by the legislation of the U.S.S.R.

The terms and the order governing extension of credit by one kolkhoz to another, when rendering assistance in production, shall be established by the legislation of the Union Republics.

#### *Article 86. Bank Loans to Citizens*

Loans to citizens shall be granted by the banks of the U.S.S.R., in the cases and in the manner determined by the legislation of the U.S.S.R.

## Article 87. *Citizens' Deposits in Credit Institutions*

Citizens may keep their money in labour savings state banks and other credit institutions, dispose of their deposits, earn income on their deposits in the form of interest or winnings, and settle their accounts by written order, in accordance with the statutes of the credit institutions and regulations issued in the established manner.

The state guarantees secrecy of deposits, their safe-keeping and payment at call.

The procedure governing disposal of deposits at labour savings state banks and other credit institutions shall be determined by their statutes and the rules listed in clause one of the present Article.

Citizens' deposits at labour savings state banks and the State Bank of the U.S.S.R. may be attached in virtue of a court sentence or judgement satisfying a civil suit arising from a criminal case, or a court judgement in a suit for alimony (in the absence of earnings or other property which may be attached), or for the separation of a deposit which is marital community property. Citizens' deposits in the said credit institutions may be confiscated on the strength of a sentence that has acquired legal force or an order of confiscation of property made in accordance with the law.

## Chapter 12

### OBLIGATIONS ARISING FROM INJURY CAUSED TO ANOTHER

#### Article 88. *General Grounds for Liability for Injury Caused to Another*

Injury caused to the person or property of a citizen, and also injury caused to an organisation, shall be subject to indemnisation in full by the person causing the injury.

The person causing the injury shall be absolved from indemnisation, where he proves that the injury was not caused by his fault.

An organisation shall repair the injury caused by the fault of its functionaries in the performance of their labour (official) duties.

Injury caused by lawful acts shall be subject to indemnisation only in the cases provided for by law.

#### Article 89. *Liability of State Establishments for Injury Caused by the Acts of Their Functionaries*

State establishments shall be liable for the injury caused to citizens by the improper official acts of their functionaries in the sphere of administrative management, in accordance with the general rules (Article 88 of the present Fundamentals), unless a special statute provides otherwise. For injury caused to organisations by such acts of their functionaries, state establish-

ments shall be liable in the manner established by law.

For injury caused by the improper official acts of functionaries of organs of inquiry, preliminary investigation, the procurator's office and the court, the state organs concerned shall be materially liable in the cases and within the limits expressly provided for by law.

Article 90. *Liability for Injury Caused by Sources of Increased Hazard*

Organisations and citizens whose activity is attended with increased hazard to other persons (transport organisations, industrial enterprises, building sites, owners of motorcars, etc.) must repair the injury caused by the source of increased hazard, unless they prove that the injury was the result of *force majeure* or intent on the part of the injured person.

Article 91. *Liability for Death or Injury to Health of Person for Whom the Person Causing the Injury Is Bound to Pay Insurance Contribution*

Where a worker, in the performance of his labour (official) duties, has been crippled or has suffered any other injury to health through the fault of an organisation or citizen bound to pay contribution for him under state social insurance, such organisation or citizen must make repara-

tion to the injured person for the injury in the amount over and above the allowance he receives or the pension which was awarded to him after the injury caused to his health and which he actually receives. Exemptions from this rule may be established by the legislation of the U.S.S.R.

In the event of the death of the injured person, the right to receive reparation for the injury shall belong to persons who are unable to earn and who had been the deceased person's dependents, or who at the time of his death were entitled to receive maintenance from him, and also the posthumous child of the deceased.

Article 92. *Liability for Death or Injury to Health of Person for Whom the Person Causing the Injury Is Not Bound to Pay Insurance Contribution*

Where crippling or any other injury to health has been caused by an organisation or citizen not bound to pay contribution for the injured person under state social insurance, such organisation or citizen must make reparation to the injured person for the injury caused, in accordance with the rules of Articles 88 and 90 of the present Fundamentals, in the amount over and above the allowance he receives or the pension which was awarded to him after the injury caused to his health and which he actually receives.

In the event of the death of the injured person, the right to receive reparation for the injury

shall belong to the persons listed in clause two of Article 91 of the present Fundamentals.

*Article 93. Fault of the Injured Person  
and Property Status of the  
Party Causing the Injury*

Where gross negligence on the part of the person injured has contributed to the occurrence of, or increase in, the injury, the amount of compensation, depending on the degree of fault of the injured person (and where the person causing the injury is at fault, depending on the degree of his fault), must be reduced or reparation of injury must be denied altogether.

The court may reduce the amount of compensation for injury caused by a citizen, depending on his property status.

*Article 94. Subrogated Claims*

An organisation or citizen liable for injury caused must, in answer to a subrogated claim filed by a state social insurance or social security agency, reimburse the amounts of allowance or pensions which have been paid to persons listed in Articles 91 and 92 of the present Fundamentals.

Where the amount of the compensation for injury has been reduced (Article 93 of the present Fundamentals), the amount of reimbursement under a subrogated claim shall be reduced accordingly.

## Chapter 13

### OBLIGATIONS ARISING FROM RESCUE OF SOCIALIST PROPERTY

#### Article 95. *Reparation of Injury Sustained in the Rescue of Socialist Property*

Injury sustained by a citizen in rescuing socialist property from impending danger must be compensated by the organisation whose property the injured person was in the act of rescuing.

The procedure governing compensation for the injury shall be established by the legislation of the Union Republics.

## PART IV

### COPYRIGHT

#### Article 96. *Works to Which Copyright Applies*

Copyright shall apply to any scientific, literary or artistic work, regardless of form, purpose or value, or of the manner of reproduction.

Copyright shall apply to works, whether published or unpublished, but available in some presentable form allowing the reproduction of the product of the author's creative activity (manuscript, drawing, image, public recital or performance, film, mechanical or magnetic recording, etc.).



Article 97. *Copyright to Works Published  
on the Territory of the  
U.S.S.R. and Abroad*

Copyright to works first published on the territory of the U.S.S.R., or unpublished but located within the territory of the U.S.S.R. in some presentable form, shall be recognised as belonging to the author and his successors in law, regardless of their citizenship.

Copyright shall also be recognised as belonging to citizens of the U.S.S.R. whose works are first published or are located in any presentable form on the territory of a foreign country, and also to their successors in law.

Copyright to works first published or located in some presentable form on the territory of a foreign country shall be recognised as belonging to other persons only on the grounds and within the limits of pertinent international agreements concluded by the U.S.S.R.

Article 98. *Rights of the Author*

To the author shall belong the right:

to publish, reproduce and circulate his work under his own name, under an assumed name (pseudonym) or without indication of name (anonymously), by any legal means;

to the integrity of the work;

to receive remuneration for the use of his work by other persons, with the exception of cases expressly provided for by law. The rates of

author's remuneration shall be established by the legislation of the U.S.S.R. and the Union Republics.

#### Article 99. *Co-authorship*

Copyright in a work produced jointly by two or more persons (collective work) shall belong to the co-authors jointly, regardless of whether such work forms an integral whole or consists of parts each of which also has independent value. Each of the co-authors shall retain the copyright to his part of the collective work which is of independent value.

#### Article 100. *Copyright of Juridical Persons. Copyright in a Work Produced as an Official Assignment*

Copyright shall be recognised as belonging to juridical persons in the cases and within the limits established by the legislation of the U.S.S.R. and the Union Republics.

The author of a work produced as an official assignment in a scientific or other organisation shall have copyright in that work. The procedure governing the use by the organisation of such work and the cases of payment of remuneration to the author shall be established by the legislation of the U.S.S.R. and the Union Republics.

## Article 101. *Use of the Author's Work by Other Persons*

Use of the author's work by other persons shall not be permitted otherwise than under contract with the author or his successors in law, except in the cases specified by law.

Standard contracts for the use of a work (publishing, production, script and other author's contracts) shall be approved in the manner established by the legislation of the U.S.S.R. and the Union Republics.

Any terms of a contract made with the author which place him in a position less advantageous than that accorded by law or standard contract shall be invalid and shall be substituted by the terms established by law or standard contract.

## Article 102. *Translation of Works*

Every published work may be translated without the author's consent, provided he is notified and provided the meaning and integrity of the work are retained. The right to receive remuneration for the use of the work in translation shall belong to the author of the original in the cases provided for by the legislation of the Union Republics.

The translator shall have the copyright in his translation.

Article 103. *Use of the Work Without the Author's Consent and Without Payment of Remuneration*

It shall be permitted, without the author's consent and without payment of remuneration, but with obligatory indication of the name of the author of the work used, and the source of the borrowing:

1) to use the published work of another to produce a new, creatively independent work, with the exception of the rewriting of a story in dramatic form or a motion-picture script and vice versa, and also the rewriting of a play into a motion-picture script and vice versa;

2) to reproduce in scientific and critical works, educational and politico-educational publications any published scientific, literary and artistic writings, in whole or in part, within the limits established by the legislation of the Union Republics;

3) to give information in the periodical press, on the screen, radio and television about published literary, scientific and artistic works;

4) to reproduce in newspapers, on the screen, radio and television public speeches, reports, and also published literary, scientific and artistic works;

5) to reproduce in any manner, with the exception of copying by mechanical contact methods, artistic works on display in places open to the public, except exhibitions and museums.

## Article 104. *Use of the Work Without the Author's Consent With Payment of Remuneration*

The following shall be permitted without the author's consent but with an indication of his name and payment of remuneration:

1) public performance of published works; however, where no admission fee is charged, the author shall have the right to remuneration only in the cases established by the legislation of the Union Republics;

2) recordings for the purpose of public reproduction or circulation of published works on film, records, magnetic tape or other device, with the exception of the use of works on the screen, radio and television (Clause 4 of Article 103 of the present Fundamentals);

3) use by a composer of published literary works for the creation of musical works with text;

4) use of artistic works and also of photographic works on manufactured articles; in such cases, mention of the author's name is not compulsory.

## Article 105. *Duration of Copyright*

The author shall enjoy the copyright for life. The legislation of the Union Republics may establish reduced periods of copyright for some works.

Copyright shall descend by succession, in the manner and within the limits established by the legislation of the U.S.S.R. and the Union Repub-

lics. Where the period of copyright has been reduced, it shall pass to the heirs for the remainder of the period still running on the day of the author's death.

The legislation of the Union Republics shall establish the limits for the exercise of copyright by heirs, in particular, the limits of payment to them of royalties, depending on the amount, but not in excess of 50 per cent of the remuneration which would have been due to the author himself.

#### Article 106. *Purchase of Copyright by the State*

Copyright to the publication, public performance and other use of a work may be compulsorily purchased by the state from the author or his heirs, in the manner provided for by the legislation of the Union Republics.

## PART V

### LAW OF DISCOVERY

#### Article 107. *Rights of the Author of a Discovery*

The author of a discovery shall have the right to demand recognition of his authorship and priority of discovery, which is certified by a diploma issued in the cases and in the manner

specified by the Statute on Discoveries, Inventions and Technical Improvements, approved by the Council of Ministers of the U.S.S.R.

The author of a discovery shall be entitled to remuneration payable to him at the issue of the diploma and also to the privileges stated in the Statute on Discoveries, Inventions and Technical Improvements.

Article 108. *Descent by Inheritance of the Rights of the Author of a Discovery*

The right to receive the diploma of the deceased author of a discovery and also remuneration for the discovery shall descend by inheritance, in the manner established by law.

Article 109. *Disputes Concerning the Authorship of a Discovery*

Disputes concerning the authorship (co-authorship) of a discovery shall be decided in a court of law.

## PART VI

### LAW OF INVENTION

Article 110. *Certificate of Authorship and Patent*

The author of an invention may, at his discretion, request either simple recognition of his

authorship, or recognition of his authorship and of his exclusive right to the invention. In the first instance, a certificate of authorship is issued for the invention; in the second instance, a patent. Certificates of authorship and patents shall be issued on the terms and in the manner specified in the Statute on Discoveries, Inventions and Technical Improvements.

The patenting abroad of inventions made within the territory of the U.S.S.R., and of inventions made abroad by Soviet citizens, and also any transfer of Soviet inventions abroad shall be permitted only in the manner established by the Council of Ministers of the U.S.S.R.

Article 111. *Use of Invention for Which  
a Certificate of Authorship Is  
Issued*

Where a certificate of authorship is issued for the invention, the right to use the invention shall belong to the state, which makes provision to realise the invention with due regard for the appropriateness of its application.

Co-operative and mass organisations may use the inventions falling within their ambit on equal terms with state organisations.

An inventor to whom a certificate of authorship is issued shall, in the event his invention is accepted for realisation, have the right to remuneration, depending on the economic or other positive effect resulting from the realisation of



his invention, and also the right to the privileges stated in the Statute on Discoveries, Inventions and Technical Improvements.

### Article 112. *Rights of the Patent Owner*

Patents shall be issued for fifteen years from the date of filing of the application. From the same date, the right of the applicant shall be protected. No one may use the invention without the consent of the person to whom the patent belongs (patent owner). The patent owner may issue a licence for the use of the invention or surrender the patent to another.

An organisation which before the filing of the application for the invention had applied the said invention within the territory of the U.S.S.R., independently of the inventor, or had made all the necessary preparations for doing so, shall retain the right to continued gratuitous use of the said invention. Disputes on this question shall be decided in a judicial proceeding.

Where the invention is of special importance to the state, but where no agreement has been reached with the patent owner concerning the transfer of the patent or the issue of a license, the Council of Ministers of the U.S.S.R. may decree mandatory alienation of the patent or give the organisation concerned a permit to use the invention and establish the amount of remuneration to the patent owner.

Article 113. *Rights of the Author of a Technical Improvement*

The author of a technical improvement accepted for realisation shall be issued a certificate establishing his authorship. He shall have the right to remuneration, depending on the economic or other positive effect resulting from the realisation of his improvement, and also the right to the privileges stated in the Statute on Discoveries, Inventions and Technical Improvements.

Article 114. *Participation of the Inventor and the Rationaliser in Realising Their Proposals*

Inventors and rationalisers must actively co-operate in the realisation and further development of their proposals, and shall have the right to take part in the operations to realise their proposals, in accordance with the procedure established by the Statute on Discoveries, Inventions and Technical Improvements.

Article 115. *Descent by Inheritance of the Rights of the Author of an Invention and Technical Improvement*

The right to obtain a certificate of authorship or a patent for an invention, a certificate for a technical improvement and remuneration for the invention and technical improvement, and also

the exclusive right to the invention based on a patent, shall descend by inheritance in the manner established by law.

*Article 116. Disputes Concerning Authorship and Payment of Remuneration*

Disputes concerning the authorship (co-authorship) of an invention shall be decided in a court of law. Disputes concerning priority of technical improvements, where such are not settled in the organisation realising the proposal, shall also be decided in a court of law.

Disputes concerning the amount, the manner of calculation and the dates of payment of the remuneration for inventions and technical improvements shall be decided in accordance with the procedure established by the Statute on Discoveries, Inventions and Technical Improvements, with the inventor or rationaliser who considers the adopted decision incorrect having the right to apply to a court of law.

## PART VII

### LAW OF SUCCESSION

*Article 117. Grounds for Succession*

Inheritance shall be effected by operation of law and under a will.

Inheritance by operation of law shall take

place where, and insofar as, it is not modified by a will.

Where there are no heirs-at-law or testamentary beneficiaries, or none of the heirs accept the inheritance, or are disinherited by the testator, the property of the decedent shall pass to the state by right of succession.

### Article 118. *Inheritance by Operation of Law*

Where inheritance is by operation of law, the children (including the adopted children), the spouse and the parents (adoptive parents) of the decedent shall be heirs of the first class, in equal shares. The posthumous child of the decedent shall also be an heir of the first class.

The grandchildren and great-grandchildren of the decedent shall be his heirs-at-law, where their parent who would have been heir is no longer alive by the time of the opening of succession; they shall take equal shares of the portion which would have been due to their deceased parent under intestate succession.

The legislation of the Union Republics may establish the subsequent classes of heirs-at-law. Heirs of each class shall be entitled to inherit by operation of law only in the absence of heirs of the preceding class or in the event of their non-acceptance of the inheritance.

Persons who are unable to earn and who had been dependents of the decedent for not less than one year prior to his death shall be heirs-at-law.

In the presence of other heirs, they shall take equally with heirs of the class upon whom the estate devolves.

Ordinary household effects and furnishings shall pass to the heirs-at-law who lived together with the decedent, regardless of their class or share in the estate. The terms of inheritance of such property shall be established by the legislation of the Union Republics.

#### Article 119. *Inheritance Under a Will*

Every citizen may bequeath by will all his property or a part thereof (not excluding ordinary household effects and furnishings) to one or several persons who may or may not be his heirs-at-law, and also to the state or to any state, co-operative and mass organisation.

Children of the decedent (including adopted children) who are minors or who are unable to earn, and also the spouse, the parents (adoptive parents) and dependents of the decedent who are unable to earn, shall inherit, regardless of the content of the testamentary disposition, not less than two-thirds of the portion which would have been due to each of them under intestate succession (*portio legitima*). In determining the size of the portion secured to them, the value of the part of the estate consisting of ordinary household effects and furnishings shall also be taken into consideration.

The procedure governing disposal *causa mortis* of deposits in labour savings state banks

and the State Bank of the U.S.S.R. by special assignments of depositors shall be determined by the statutes of the said credit institutions and the rules laid down in the established manner.

*Article 120. Liability of Heir for the Debts of the Decedent*

An heir who accepts the inheritance shall be liable for the debts of the decedent within the limits of the actual value of the estate which passes to him by inheritance. The state, where it receives property under Articles 117 and 119 of the present Fundamentals, shall be liable on the same grounds.

*Article 121. Place of the Opening of Succession*

The last permanent domicile of the decedent, and where that is unknown, the place where the property, or its principal part, is located is deemed to be the place of the opening of succession.

## PART VIII

### **LEGAL CAPACITY OF ALIENS AND STATELESS PERSONS.**

### **APPLICATION OF FOREIGN CIVIL LAWS, INTERNATIONAL TREATIES AND AGREEMENTS**

*Article 122. Civil Legal Capacity of Aliens*

Aliens shall enjoy in the U.S.S.R. legal capacity equally with Soviet citizens. Exemptions may be established by a law of the U.S.S.R.

The Council of Ministers of the U.S.S.R. may impose retaliatory restrictions on citizens of countries imposing special limitations on the civil legal capacity of Soviet citizens.

*Article 123. Civil Legal Capacity of Stateless Persons*

Stateless persons resident in the U.S.S.R. shall enjoy civil legal capacity equally with Soviet citizens. Exemptions may be established by a law of the U.S.S.R.

*Article 124. Foreign Trade Transactions of Alien Organisations*

Alien enterprises and organisations may, without special permission, conclude in the U.S.S.R. foreign trade transactions and related payments, insurance and other operations with Soviet foreign trade associations and other Soviet organisations authorised to conclude such transactions.

*Article 125. Law Applying to the Form of Transaction*

The form of transaction concluded abroad shall be governed by the law of the place where it is made. However, a transaction cannot be deemed invalid by reason of non-observance of the form, where it complies with the requirements of the legislation of the U.S.S.R. and the Union Republic concerned.

The form of foreign trade transactions conclud-

ed by Soviet organisations, and the procedure governing their signature, regardless of the place where such transactions are concluded, shall be determined by the legislation of the U.S.S.R.

The form of transactions relating to structures located in the U.S.S.R. shall be governed by the legislation of the U.S.S.R. and the Union Republic concerned.

Article 126. *Law Applying to Obligations  
Arising from Foreign Trade  
Transactions*

The rights and duties of the parties to a foreign trade transaction shall be determined pursuant to the laws of the place where it is concluded, unless otherwise provided for by agreement of the parties.

The place of conclusion of the transaction shall be determined pursuant to Soviet law.

Article 127. *Law Applying to Succession*

Relations arising from succession shall be determined by the law of the country where the decedent had his last permanent domicile.

The capacity of a person to make and revoke his will, and also the form of bequest and the act of its revocation, shall be determined by the law of the country in which the testator had his permanent domicile at the moment of making the act. However, a will or its revocation may not be deemed invalid by reason of non-compliance with the form, where the latter satisfies the require-



ments of the law of the place where the act was made, or the requirements of Soviet law.

Inheritance of structures located in the U.S.S.R. shall, in any case, be determined by Soviet law. The same law shall determine the capacity of a person to make or revoke a will, and also the form of the latter, where a structure located in the U.S.S.R. is bequeathed.

Article 128. *Limitation to the Application  
of Foreign Law*

A foreign law shall not apply where its application would contradict the fundamental principles of the Soviet system.

Article 129. *International Treaties and  
Agreements*

Where an international treaty or international agreement to which the U.S.S.R. is party establishes rules other than those contained in Soviet civil legislation, the rules of the international treaty or international agreement shall apply.

The same rule shall apply in the territory of a Union Republic, where an international treaty or international agreement to which the Union Republic is party establishes rules other than those provided for by the civil legislation of the Union Republic.



**FUNDAMENTALS  
OF CIVIL PROCEDURE  
OF THE U.S.S.R.  
AND THE UNION REPUBLICS**



# **FUNDAMENTALS OF CIVIL PROCEDURE OF THE U.S.S.R. AND THE UNION REPUBLICS**

*(Approved by the Supreme Soviet  
of the U.S.S.R.,  
December 8, 1961)*

## **PART I**

### **GENERAL**

#### *Article 1. Legislation on Civil Procedure*

The procedure in civil cases shall be governed by the present Fundamentals and by other laws of the U.S.S.R. and the codes of civil procedure of the Union Republics issued in accordance with them.

Legislation on civil procedure shall establish the procedure governing the trial of cases arising from civil, family, labour and kolkhoz legal relations, cases arising out of administrative legal relations, and cases subject to the rules for special proceedings. Cases arising from administrative legal relations and cases subject to the rules for special proceedings shall be tried under the general rules of civil procedure, subject to any exemptions established by the legislation of the U.S.S.R. and the Union Republics.

## Article 2. *Purposes of Civil Procedure*

The purposes of Soviet civil procedure shall be the correct and expeditious trial and adjudication of civil cases for the purpose of safeguarding the social and state system of the U.S.S.R., the socialist system of economy and socialist property, protecting the political, labour, housing and other personal and property rights and lawful interests of citizens, and also the rights and lawful interests of state establishments, enterprises, kolkhozes and other co-operative and mass organisations.

Civil procedure must promote the strengthening of the socialist rule of law, prevention of infringements of the law, and education of citizens in a spirit of undeviating observance of Soviet laws and respect for the rules of socialist community life.

## Article 3. *Procedure in Civil Cases*

The procedure in civil cases in courts of the Union Republics shall be governed by the laws of civil procedure of the U.S.S.R. and the Union Republic whose courts hear the case, perform several acts of procedure or execute the judgement of the court.

The procedure in civil cases in the Supreme Court of the U.S.S.R. shall be governed by the laws of civil procedure of the U.S.S.R. and the Union Republic whose courts heard, or should

have heard, the case, in accordance with the rules of territorial jurisdiction.

The procedure in civil cases shall be governed by the laws of civil procedure in force at the time the case is tried, the several acts of procedure are performed or the court judgement is executed.

#### Article 4. *Jurisdiction in Civil Cases*

The courts shall have jurisdiction over disputes arising out of civil, family, labour and kolkhoz legal relations, where at least one of the parties to the dispute is a citizen or a kolkhoz, except where the law refers the hearing of such disputes to administrative or other organs.

In the cases provided for by law, civil suits may be heard by comrades' courts. The procedure governing the operation of comrades' courts shall be established by the legislation of the Union Republics.

The courts shall have jurisdiction over suits upon complaints concerning incorrect entries in electoral rolls, acts of administrative organs in connection with the imposition of fines and other cases arising out of administrative legal relations referred by the law to the jurisdiction of judicial organs.

The courts shall have jurisdiction over actions subject to the rules for special proceedings: to establish facts having juridical significance, unless the law provides for another proceeding

for their establishment; to declare a citizen absent or dead, to declare a citizen legally incompetent in consequence of mental deficiency or feeble-mindedness.

The courts shall have jurisdiction over other cases referred by the law to the jurisdiction of judicial organs.

The courts shall also hear cases involving aliens or foreign enterprises or organisations.

### *Article 5. Right to Invoke the Court for Judicial Protection*

Any party in interest shall have the right, in the manner established by law, to invoke the court for protection of an infringed or contested right or lawful interest.

Renunciation of the right to sue shall be invalid.

### *Article 6. Institution of Civil Proceedings*

The court shall commence the trial of a civil case:

- 1) upon motion by a party applying for protection of his right or lawful interest;
- 2) upon motion by the procurator;
- 3) upon motion by organs of state administration, trade unions, state establishments, enterprises, kolkhozes and other co-operative and mass organisations or individual citizens, where the



law allows them to apply to the court for protection of the rights and interests of other persons.

*Article 7. Administration of Justice Only  
by the Court and on the Principles of Equality of Citizens  
Before the Law and the Court*

The court alone shall administer justice in civil cases on the principles of equality before the law and the court of all citizens, irrespective of their social, property and official status, national and racial origin, and religious beliefs.

*Article 8. Participation of People's Assessors and Collegial Trial of Cases*

Civil cases in all courts shall be tried by judges and people's assessors elected in the manner established by law.

Civil cases in all courts of first instance shall be heard by a bench consisting of a judge and two people's assessors.

People's assessors shall enjoy equal rights with the judge presiding at the sitting of the court in deciding all matters which arise in hearing the case and rendering judgement.

Cases on appeal for cassation shall be heard by a bench of three judges, and cases reviewed by way of judicial supervision, by a bench of not less than three judges.

Article 9. *Independence of Judges and  
Their Subordination Only to the  
Law*

In administering justice in civil cases, judges and people's assessors shall be independent and subject only to the law. Judges and people's assessors shall adjudicate civil cases on the basis of the law, in accordance with the socialist concept of justice and in conditions precluding any external influence on the judges.

Article 10. *Language of Judicial Proceedings*

Judicial proceedings shall be conducted in the language of the Union or Autonomous Republic or Autonomous Region, and, in the cases provided for by the Constitutions of the Union or Autonomous Republics, in the language of the National Area or the language of the majority of the local population.

Persons unfamiliar with the language in which the judicial proceedings are being conducted shall have the right to enter motions, give explanations and submit testimonies, plead in court and file petitions in their native language, and also to have the services of an interpreter, in the manner established by law.

Judicial documents shall, in accordance with the procedure established by law, be served on the participants in the trial in a translation into

their native language or into some other language with which they are familiar.

### Article 11. *Public Nature of Trials*

Cases in all courts shall be heard in public, except where this is contrary to the interest of protecting state secrets.

In addition, by a motivated ruling of the court, cases may be heard *in camera*, in order to avoid publicity concerning the intimate life of participants in the trial.

The judgement of the court shall, in any event, be made public.

### Article 12. *Adjudication of Cases on the Basis of the Laws in Force*

It shall be the duty of the court to adjudicate cases on the basis of the statutes of the U.S.S.R., Union and Autonomous Republics, decrees of the Presidium of the Supreme Soviet of the U.S.S.R., the Presidiums of the Supreme Soviets of Union and Autonomous Republics, the decrees of higher organs of state administration of the U.S.S.R., the Union and the Autonomous Republics. The court shall also apply acts issued by other organs of state power and administration within the jurisdiction vested in them.

The court shall, in accordance with the law, apply the rules of foreign law.

In the absence of any law regulating a contested relation the court shall apply the law regulat-

ing analogous relations, and in the absence of such law, the court shall proceed from the general principles and meaning of Soviet legislation.

*Article 13. Supervision of Judicial Activity by the Supreme Court of the U.S.S.R., the Supreme Courts of the Union and the Autonomous Republics*

The Supreme Court of the U.S.S.R. shall exercise supervision of the judicial activity of judicial bodies of the U.S.S.R., and also of the judicial bodies of the Union Republics, within the limits established by law.

The Supreme Courts of the Union Republics and the Supreme Courts of the Autonomous Republics shall exercise supervision of the judicial activity of the judicial bodies of their respective Republics.

*Article 14. Procurator's Supervision in Civil Procedure*

Supervision of the faithful observance of the laws of the U.S.S.R. and the Union and the Autonomous Republics in civil procedure shall be exercised by the Procurator-General of the U.S.S.R., either directly or through subordinate procurators.

It shall be the duty of the procurator at every stage of civil proceedings to take timely measures provided by law to eliminate any infringements

of the law, whosoever may be the source of such infringements.

The procurator shall exercise his powers in civil procedure independently of any organs or functionaries, being subject only to the law and guided by the instructions of the Procurator-General of the U.S.S.R.

*Article 15. Mandatory Nature of Court Judgements, Rulings and Orders*

Judgements, rulings and orders of the court which have become final shall be mandatory for all state establishments, enterprises, kolkhozes and other co-operative and mass organisations, persons in office and citizens, and shall be subject to execution throughout the entire territory of the U.S.S.R.

The mandatory nature of judgements, rulings and orders shall not deprive the parties in interest of the possibility of invoking the court for protection of rights and lawful interests litigation over which has not been examined and decided by the court.

*Article 16. Clarification by the Court of the Actual Circumstances of the Case, and the Rights and Duties of the Parties*

It shall be the duty of the court, without confining itself to the pleadings and materials submitted, to take all the measures prescribed by

law for the full, comprehensive and fair clarification of the actual facts of the case, and the rights and duties of the parties.

It shall be the duty of the court to explain to the litigants their rights and duties, to warn them of the consequences of procedural acts and omissions, and to help litigants in the exercise of their rights.

### Article 17. *Evidence*

Evidence in a civil case shall consist of any facts on the basis of which, in the manner established by law, the court ascertains the existence or non-existence of circumstances proving the parties' claims and defences, and other circumstances relevant to a correct decision of the case.

These facts shall be established by the following means: pleadings of litigants and third parties, testimony of witnesses, documentary proof, exhibits and expert findings.

Circumstances of the case which the law requires to be proved by one type of evidence may not be proved by any other type of evidence.

### Article 18. *Onus of Proving and Presenting Evidence*

Each party must prove the facts up on which he relies as the basis for his claims and defences.

Evidence shall be submitted by the parties and other participants in the case. Where the evidence submitted is inadequate, the court may order

the parties and other participants in the case to submit additional evidence or may collect it on its own initiative.

### Article 19. *Assessment of Evidence*

The court shall assess the evidence in accordance with their inner convictions based on a full, comprehensive and fair examination of all the facts of the case in their totality, being guided by the law and by the socialist concept of justice.

No evidence shall have predetermined value for the court.

### Article 20. *Letters Rogatory*

The court hearing a case may, where the need arises to collect evidence in another town or district, present letters rogatory to the appropriate court to perform certain acts of procedure.

Records and all materials collected in the execution of letters rogatory shall be immediately transmitted to the trial court.

### Article 21. *Binding Nature of Judgements in Criminal Cases for Courts Hearing Civil Cases*

The final judgement in a criminal case shall be binding on the court trying a case, concerning the civil consequences of acts performed by the person in respect of whom the judgement was rendered in the criminal case, only as to whether such acts had taken place and whether they had been committed by the person in question.

## Article 22. *Challenges to the Judge, Procurator, and Other Participants in the Trial*

The judge, people's assessor, procurator, clerk of session, expert and interpreter may not participate in the trial and shall be removed from the proceedings where they have, directly or indirectly, a personal interest in the outcome of the case, or where other circumstances cast doubt on their impartiality.

## Article 23. *Court Costs*

Court costs shall consist of a state fee and the costs incurred in the proceedings.

Court costs for the benefit of the state shall not be collected from:

- 1) plaintiffs who are industrial, office or professional workers and who sue for recovery of wages or file other claims arising out of labour legal relations, or who are kolkhoz members and sue kolkhozes for remuneration of work done;

- 2) plaintiffs in suits flowing from copyright, and also from the right to discovery, invention or technical improvement;

- 3) plaintiffs in suits for alimony;

- 4) plaintiffs in suits for damages caused by maiming or other injury to health, and also death of breadwinner.

The legislation of the U.S.S.R. and the Union Republics may provide for other instances in



which parties are excused from payment of court costs for the benefit of the state.

The court or judge may, depending on the citizen's property status, excuse him from the payment of court costs for the benefit of the state.

## PART II

### **PARTICIPANTS IN THE TRIAL; THEIR RIGHTS AND DUTIES**

#### *Article 24. The Parties, Their Rights and Duties*

Citizens, and also state establishments, enterprises, kolkhozes and other co-operative and mass organisations, enjoying the rights of juridical persons, may be parties to civil proceedings—plaintiffs or defendants.

The parties shall enjoy equal procedural rights. The parties may study the material on record in the case, make challenges, submit evidence, take part in the examination of evidence, make motions and file petitions, deliver oral and written pleadings, present their arguments and considerations, enter their objections to the motions, petitions, arguments and considerations of the adverse party, appeal from the court's decisions and rulings, demand compulsory execution of court judgements, be present at the execution of the judgement by the officer of the court, and also perform other procedural acts provided by law.

It shall be the duty of the parties to exercise honestly the procedural rights belonging to them.

Persons taking part in cases arising from administrative legal relations and in cases subject to the rules for special proceedings shall enjoy the rights and assume the duties of parties, except for the exemptions established by law.

Plaintiff shall have the right to modify the cause or the subject matter of the claim, to increase or reduce the amount of the claim, or to abandon the claim. Defendant shall have the right to admit the claim. The parties may end the litigation by a composition.

The court shall not accept plaintiff's abandonment of the claim, or defendant's admission of the claim, and shall not endorse a composition between the parties, where such acts contradict the law or infringe another's rights and lawful interests.

#### Article 25. *Plurality of Plaintiffs or Defendants in the Case*

Suits may be filed jointly by several plaintiffs or against several defendants. With respect to the adverse party, each of the plaintiffs or defendants shall appear in the case independently.

#### Article 26. *Substitution in Misjoinder*

The court, having established in the course of the proceedings that the complaint has been filed

by a party other than he who has the right to sue, or against a party other than he who should answer the claim, may, without dismissing the case, permit the substitution of proper plaintiff or defendant for the original plaintiff or defendant.

Where the plaintiff does not consent to the substitution of another person for the defendant, the court may order that person to join the suit as a second defendant.

### *Article 27. Third Parties*

Third parties who file independent claims to the subject matter of the dispute may join the suit prior to the rendering of the judgement by the court. They shall enjoy all the rights and assume all the duties of plaintiff.

Third parties who do not file independent claims to the subject matter of the dispute may join the suit either as parties plaintiff or parties defendant prior to the rendering of the judgement by the court, where the decision in the case may affect their rights or duties in respect of either litigant. They may also be called to join the suit on the motion of the parties or the procurator, or the court's own motion. Third parties who do not file independent claims shall enjoy the procedural rights and assume the procedural duties of parties, except for the right to modify the cause and subject matter of the claim, to increase or reduce the amount of the claim, or

the right to abandon the claim, to admit a claim or make a composition.

### Article 28. *Representation in Court*

Citizens may plead their causes in court either personally or through their representatives. The causes of incompetents shall be pleaded by their legal representatives.

The causes of juridical persons shall be pleaded by their agencies or their representatives.

### Article 29. *Procurator's Participation in the Proceedings*

The procurator shall have the right to initiate or enter a civil case at any stage of the proceedings, wherever this is required for the protection of state or public interests or of the rights and lawful interests of citizens.

The procurator's participation in the trial of civil cases shall be mandatory, where this is prescribed by law, or where the procurator's participation in a given case is recognised as necessary by the court.

The procurator taking part in a case shall acquaint himself with the material of the case, make challenges, submit evidence, take part in the examination of evidence, file petitions, present his opinion on matters arising in the course of the trial and on the merits of the case

as a whole, and also take other procedural steps provided for by law.

Article 30. *Participation in the Trial of  
Organs of State Administration, Trade Unions, Estab-  
lishments, Enterprises, Organ-  
isations and Citizens in  
Defence of the Rights of Others*

In the cases provided for by law, organs of state administration, trade unions, state establishments, enterprises, kolkhozes and other co-operative and mass organisations or citizens may take action in defence of the rights and lawful interests of others.

Organs of state administration, in the cases provided for by law, may be caused by the court to join the suit or may join the suit on their own motion to present their opinion on the case in order to perform their duties or to act in defence of the rights of citizens or interests of the state.

The organs of state administration, establishments, enterprises and organisations enumerated in the present Article, through their representatives, and citizens may acquaint themselves with the materials of the case, make challenges, deliver pleadings, submit evidence, take part in the examination of evidence, file petitions, and also perform other procedural acts provided for by law.

## PART III

### TRIAL OF CASES IN COURTS OF FIRST INSTANCE

#### Article 31. *Taking Cognisance of Complaints in Civil Suits*

The judge, sitting alone, shall decide whether or not to take cognisance of a motion in a civil suit.

The judge shall refuse to take cognisance of the motion:

1) where the cause is not subject to trial by judicial bodies;

2) where the plaintiff has failed to comply with the procedure for preliminary extra-judicial settlement of dispute established by law for the given category of causes;

3) where there is a final court judgement or ruling which has been rendered in a dispute between the same parties, over the same subject matter and on the same grounds, stating acceptance of the plaintiff's abandonment of the claim or endorsing a composition by the parties;

4) where there is a suit pending in court on a dispute between the same parties, over the same subject matter and on the same grounds;

5) where a decision has been handed down by a comrades' court, within the limits of its jurisdiction, in a dispute between the same parties, over the same subject matter and on the same grounds.

6) where the parties have made a contract to submit the said dispute to a mediation board;

7) where the cause is not subject to the jurisdiction of the given court;

8) where the complaint has been filed by an incompetent person;

9) where the complaint has been filed on behalf of plaintiff by a person not empowered to plead the cause.

The judge, in rejecting the motion, shall enter a motivated ruling to that effect.

The judge's rejection of a motion on the grounds enumerated in clauses 2, 7, 8 and 9 of the present Article shall not be a bar to a fresh application to the court with the same suit, provided the defects are corrected.

### *Article 32. Securing Collection of the Claim*

The court or the judge, on the motion of participants in the case or on its own motion, may take steps to secure collection of the claim. Collection of the claim may be secured at any stage of the proceedings, where failure to take such steps may render execution of the court judgement more difficult or impossible.

### *Article 33. Preparation of Civil Cases for Trial*

Upon sustaining a motion, the judge shall make preparations for the trial of the case in order to ensure its expeditious and correct adjudication.

## Article 34. *Judicial Investigation*

Civil cases shall be heard in a trial session of the court, with due notice to that effect being served on the participants in the case.

The court shall hear the pleadings of the parties and other participants in the case, examine other evidence and take other procedural steps.

After hearing the pleadings and the opinion of the procurator, the court shall retire to the conference room to render judgement.

## Article 35. *Direct, Oral and Uninterrupted Trial*

A court of first instance, in trying a case, must make direct examination of the evidence on record in the case; hear the pleadings of the participants in the case, the testimony of witnesses and the findings of experts, read documentary proof and inspect exhibits. Exemptions from the present rule shall be allowed only in the cases established by the legislation of the Union Republics.

The trial of a case shall be oral and without any changes in the bench. In the event of substitution of a judge during the proceedings, the hearing of the case must be recommenced.

The trial of every case shall be conducted without interruption, except for the time allotted for rest. The court may not hear other cases before the termination or adjournment of the trial of a case which has been commenced.



## Article 36. *Participation of the Public in the Trial*

Duty authorised representatives of mass organisations and working people's collectives which are not parties to the case may, by an interlocutory order of the court, be permitted to take part in the trial in order to present to the court the opinion of their organisations and collectives concerning the case before the court.

The rights and duties of representatives of mass organisations and working people's collectives shall be determined by the legislation of the Union Republics.

## Article 37. *Judgement of the Court*

The judgement of the court must be legally correct and valid.

The court shall base its judgement only on the evidence examined at the trial. In any event, the judgement must state: the circumstances established by the court; the evidence on which the court's conclusions are based, and the reasons for which the court has rejected any evidence; the laws by which the court was guided; the court's decision satisfying or denying the claim in full or in part; the time limit and the manner in which appeal may be taken from the judgement.

Depending on the circumstances established in the case, the court may adjudicate in excess of plaintiff's claim, where this is necessary for the protection of the rights and lawful interests of

state establishments, enterprises, kolkhozes and other co-operative and mass organisations or citizens.

The judgement of the court shall be made by a majority of votes; it shall be reduced to writing and signed by all the judges. Each judge may attach to the record his dissenting opinion.

The Supreme Court of the U.S.S.R. shall pronounce judgement in the name of the Union of Soviet Socialist Republics, and the courts of the Union Republics, in the name of their Union Republic.

The court, having rendered its judgement in a case, may determine the manner of its execution, postpone its execution, or permit execution in instalments, explain its judgement without modifying its content, and also enter a supplementary decision on a claim examined at the trial session but not decided by the court.

#### *Article 38. Riders to Court Judgements*

The court, having discovered in the trial of a civil case infringements of the law or the rules of socialist community life by persons in office or citizens, or essential shortcomings in the work of state establishments, enterprises, kolkhozes and other co-operative and mass organisations, shall add a rider to its judgement and transmit it to the establishments, enterprises, organisations, persons in office or working people's collectives concerned, which must inform the court of the measures they have taken.

Where, in the trial of a civil case, the court discovers indicia of a crime in the acts of a party or another person, it shall inform the procurator thereof, or shall institute criminal proceedings.

### Article 39. *Entry of Court Judgements into Force*

The court judgement shall become final upon the expiration of the period for bringing a cassation appeal or protest, where no appeal or protest has been filed against it. Where a cassation appeal or cassation protest has been brought, the judgement, unless it has been set aside, shall become final upon its examination by a higher court.

Judgements rendered by the Supreme Court of the U.S.S.R. and the Supreme Courts of the Union Republics shall become final immediately upon pronouncement.

Where the judgement has become final, the parties and other participants in the case or their successors may not bring again the same actions, on the same grounds, nor contest in another trial the facts and legal relations established by the court.

### Article 40. *Suspension of Proceedings*

The court must suspend proceedings in the following cases:

1) death of a citizen, where the disputed legal relation allows succession, or the extinction of a juridical person who was party to the suit;

2) loss of legal ability by a party;

3) defendant's service in a field unit of the Armed Forces of the U.S.S.R., or motion of plaintiff who is in a field unit of the Armed Forces of the U.S.S.R.;

4) impossibility to examine the case prior to the adjudication of another case which is being tried in a civil, criminal or administrative proceeding.

The legislation of the Union Republics may establish other grounds on which the court may, on the motion of the participants or on its own motion, suspend proceedings in a case.

#### *Article 41. Dismissal of Action*

The court shall dismiss an action:

1) where the cause is not subject to judicial investigation;

2) where plaintiff has failed to observe the procedure for preliminary extra-judicial settlement of the dispute, as established for the given category of suits, and where it is no longer possible to resort to such a proceeding;

3) where there is a final judgement entered in a dispute between the same parties, over the same subject matter and on the same grounds, or a ruling concerning plaintiff's abandonment of the claim or endorsement of a composition;

4) where plaintiff has abandoned the claim and the abandonment has been accepted by the court;

5) where the parties have made a composition and it has been approved by the court;

6) where a decision has been handed down by a comrades' court, within its jurisdiction, in a dispute between the same parties, over the same subject matter and on the same grounds;

7) where the parties have made a contract to submit the given dispute to a mediation board;

8) where, upon the death of a citizen who was a party to the case, the contested legal relation does not allow of succession.

In the event an action is dismissed, the same parties may not bring an action over the same subject matter and on the same grounds.

#### *Article 42. Refusal to Proceed in a Case*

The court shall refuse to proceed in a case:

1) where plaintiff has failed to observe the procedure for preliminary extra-judicial settlement of the dispute, as established for the given category of suits, and it is still possible to resort to such a proceeding;

2) where the action has been brought by a legal incompetent;

3) where the motion on behalf of plaintiff has been filed by a person who is not empowered to plead the cause.

The legislation of the Union Republics may establish other grounds on which the court may refuse to proceed in the case.

When the causes serving as grounds for refusal to proceed in the case are eliminated, plaintiff shall have the right to file the same suit in accordance with the general rules.

Article 43. *Change of Venue from the Court of One Union Republic to the Court of Another Union Republic*

Change of venue from the court of one Union Republic to the court of another Union Republic shall be effected on the strength of a court ruling upon the expiration of the time limit allowed for appeal or protest against the ruling, and in the event of the filing of an appeal or a protest, upon the entry of a ruling rejecting the appeal or protest.

In the event of a dispute arising between courts of different Union Republics over the venue of a case, the matter shall be decided by the Supreme Court of the U.S.S.R.

## PART IV

### CASSATION AND SUPERVISION PROCEEDINGS

Article 44. *Right of Cassation Appeal and Protest Against Judgements*

Appeals for cassation of judgements rendered by all courts, with the exception of the judgements of the Supreme Court of the U.S.S.R. and the Supreme Courts of the Union Republics, may be filed by the parties and other participants in the case, within the time limits established by the legislation of the Union Republics.

The procurator shall lodge his protest against a legally incorrect or invalid judgement, irrespective of whether or not he has participated in the given case.

Copies of the appeals or protests filed in the case must be served on the parties and other participants in the case. Notice of the time and place of the review of the case in a cassation proceeding shall be served on the parties and other participants in the case.

The procedure governing the service of copies of the appeal and protest and the procedure governing the service of notice of the time and place of the cassation proceeding shall be established by the legislation of the Union Republics.

#### Article 45. *Review of Cases in Cassation Proceedings*

In reviewing a case in a cassation proceeding, the court, on the ground of the materials on record in the case and those additionally submitted by the parties and other participants in the case, shall examine whether the judgement of the court of first instance is legally correct and valid, both in its contested and uncontested parts, and also with regard to persons who have filed no appeal.

The court shall not be bound by the grounds specified in the cassation appeal or protest, and must verify the whole case.

When a case is reviewed in a cassation proceeding, the procurator shall enter his opinion

as to whether the judgement is legally correct and valid.

#### Article 46. *Powers of the Cassation Court*

The court, having reviewed the case in a cassation proceeding, may enter a ruling:

1) leaving the judgement without modification, and the appeal or protest, without satisfaction;

2) quashing the judgement, in full or in part, and remanding the case for a new trial by the court of first instance;

3) quashing the judgement, in full or in part, and dismissing the case, or refusing to proceed in the case;

4) modifying the judgement or rendering a new judgement, without remanding the case for a new trial, where the case does not require any collection or additional verification of evidence, and where the facts in the case have been established by the court of first instance fully and correctly, but where an error has been made in the application of the rules of substantive law.

#### Article 47. *Grounds for Quashing Judgements in Cassation Proceedings*

The following shall be grounds for quashing a judgement in a cassation proceeding and remanding the case for a new trial by the court of first instance: the facts of the case are not sufficiently clear; the facts of the case which the court deems established are unproven; the conclusions of the



court set forth in the judgement do not correspond to the facts of the case; the rules of substantive law or the rules of adjective law are incorrectly applied or violated.

Court judgements shall be subject to quashing by way of cassation, with the court dismissing the case or refusing to proceed in the case, on the grounds enumerated in Articles 41 and 42 of the present Fundamentals.

No judgement which is essentially correct may be reversed for purely formal reasons.

Article 48. *Appeals and Protests from Rulings and Interlocutory Orders of First Instance*

Appeals may be filed by the parties and other participants in the case, and protests lodged by the procurator, with a court of second instance against the findings and interlocutory orders of a court of first instance, separately from the judgement, with the exception of the rulings of the Supreme Court of the U.S.S.R. and the Supreme Courts of the Union Republics, in the instances specified by law, and also where the interlocutory order bars further proceedings in the case.

Article 49. *Ex Officio Review of Final Judgements, Rulings and Interlocutory Orders*

Judgements, rulings and interlocutory orders which have become final may be reviewed *ex*

*officio* on protests lodged by procurators, presidents of the courts and their deputies in whom this power is vested by law.

Judicial officers who are authorised to lodge protests *ex officio* may suspend the execution of judgements, rulings and interlocutory orders pending the termination of the *ex officio* review.

In an *ex officio* review of a case, the court, on the ground of the materials on record in the case and those additionally submitted, shall verify whether the judgement, ruling or interlocutory order is legally correct and valid, both in its contested and uncontested parts, and also with regard to persons not specified in the protest.

The court shall not be bound by the grounds specified in the protest and must verify the whole case.

The procurator shall participate in the supervision proceeding and shall maintain his protest or the protest lodged by a superior procurator, or shall enter his opinion on the case being reviewed upon protest by the president of the court or his deputy.

Copies of the protest lodged in the case shall be served on the parties and other participants in the case. Notices of the time and place of the supervision proceeding shall, where necessary, be served on the parties and other participants in the case.

The procedure governing the service of copies of protests, and the procedure governing the

service of notice of the time and place of the *ex officio* review shall be established by the legislation of the Union Republics.

### Article 50. *Powers of the Court Reviewing a Case Ex Officio*

The court, having reviewed a case *ex officio*, may enter a ruling or order:

1) leaving the judgement, ruling or interlocutory order without modification, and the protest, without satisfaction;

2) reversing the judgement, ruling or interlocutory order, in full or in part, and remanding the case for a new trial by the court of first instance or the cassation court;

3) reversing the judgement, ruling or interlocutory order, in full or in part, and dismissing the proceedings, or refusing to proceed in the case;

4) leaving the earlier judgement, ruling or interlocutory order in the case in force;

5) modifying the judgement, ruling or interlocutory order, or entering a new judgement, without remanding the case for a new trial, where the case does not require any collection or additional verification of evidence and where the facts of the case have been established by the court of first instance in full and correctly, but where an error has been made in the application of the rules of substantive law.

Article 51. *Grounds for Reversal of Judgements, Rulings and Interlocutory Orders in Ex Officio Review*

Invalidity of judgements, rulings or interlocutory orders or essential violations of the rules of substantive or adjective law shall be grounds for the reversal in *ex officio* review.

A court judgement, ruling or interlocutory order shall be subject to reversal in an *ex officio* review, with the court dismissing the case or refusing to proceed in the case, on the grounds enumerated in Articles 41 and 42 of the present Fundamentals.

Article 52. *Binding Nature of Instructions of Higher Courts*

Instructions set forth in a ruling or order of a court reviewing a case in cassation proceedings or by way of judicial supervision shall be binding upon the court retrying the case.

The court reviewing a case in a cassation proceeding or by way of judicial supervision may not establish or consider proven facts which had not been established in the judgement or had been rejected by it, or predetermine the authenticity or unauthenticity of any evidence, the relative value of any evidence, or the application of any rules of substantive law, or the decision to be entered in a fresh hearing of the case.

Nor may the court, in reversing a cassation rul-

ing in an *ex officio* review of the case, predetermine the conclusions which may be drawn by the cassation court in a fresh examination of the case.

Article 53. *Review of Final Judgements, Rulings and Interlocutory Orders by Reason of Newly Discovered Circumstances*

Judgements, rulings and interlocutory orders which have become final may be reviewed by reason of newly discovered circumstances.

The following shall be grounds for a review of judgements, rulings and interlocutory orders by reason of newly discovered circumstances:

1) facts material to the case which were not known, and could not have been known, to the petitioner;

2) false testimony of witness, false findings of expert, deliberately incorrect translation, and forged documents or exhibits, as established in a final judgement of the court, which have resulted in the rendition of a legally incorrect or invalid decision;

3) criminal acts of parties, other participants in the case or their representatives, or criminal acts of judges committed in the hearing of the case and established by a final judgement of the court;

4) reversal of the court judgement, interlocutory order or decision of any other body which

served as ground for the given judgement, ruling or interlocutory order.

The period of limitation and the procedure governing the review of judgements, rulings and interlocutory orders by reason of newly discovered circumstances shall be established by the legislation of the Union Republics.

## PART V

### EXECUTION OF COURT JUDGEMENTS

#### Article 54. *Execution of Final Judgements*

Court judgements shall be executed upon becoming final, with the exception of cases of immediate execution, as established by the legislation of the Union Republics.

Compulsory execution of court judgements shall be made upon the expiration of the period allowed debtors for voluntary execution of court judgements, in accordance with the legislation of the Union Republics.

Judgement in a case in which at least one of the parties is a citizen may be presented for compulsory execution within three years from the date it becomes final, and for all other cases, within one year.

The legislation of the U.S.S.R. and the Union Republics may lay down other periods for execution of court judgements for the several categories of cases.

Article 55. *Mandatory Nature of Orders  
in Execution of Court Judgements*

Orders given by the officer of the court executing court judgements shall be mandatory upon all state establishments, enterprises, kolkhozes and other co-operative and mass organisations, persons in office and citizens throughout the entire territory of the U.S.S.R.

Article 56. *Control over Correct and  
Timely Execution of Court  
Judgements*

Control over correct and timely execution of court judgements shall be exercised by the judge.

The parties and other participants in the case may appeal against the executory acts of the officer of the court. The procedure governing the examination of such appeals shall be established by the legislation of the Union Republics.

Article 57. *Attachment of Property of  
Citizens, State Establishments,  
Enterprises, Kolkhozes and  
Other Co-operative and Mass  
Organisations*

Recovery from citizens shall be effected by attachment of the debtor's personal property, and of his part of common property, and marital community property, and also of the property of a

collective-farm household or an individual peasant farm.

Recovery of damages caused by a crime may also be effected by attachment of property which is marital community property or the property of a collective-farm household or an individual peasant farm, where the judgement in a criminal case has established that the said property was acquired for money obtained by criminal means.

The deposits of citizens in labour-savings state banks and the State Bank of the U.S.S.R. may be attached on the strength of a court sentence or judgement satisfying a civil suit which arose out of a criminal case, or a court judgement in action for alimony (in the absence of earnings or other property which may be attached), or for partition of a deposit which is marital community property.

The debtor's wages or other earnings, pension or grant may be attached, where the debtor does not possess any property or where the amount of such property is insufficient for full recovery.

The debtor's property shall not be attached, where the amount to be recovered is not greater than the part of the monthly wage or other earnings, pension or grant which may be attached under law.

Social insurance benefits paid during temporary incapacitation, and also allowances paid from kolkhoz mutual aid funds may be attached only by a court order for recovery of alimony or compensation of damages caused by maiming



or other injury to health, and also by death of breadwinner.

Recovery from state establishments, enterprises, kolkhozes and other co-operative and mass organisations shall be effected above all by attachment of the debtor's cash resources in credit institutions, in accordance with the rules established by the legislation of the U.S.S.R.

Enumeration of the types of property of citizens, state establishments, enterprises, kolkhozes and other co-operative and mass organisations, the proportion of wages or other earnings, pensions and students' grants which may not be attached, and also the order of priority for satisfaction of claims for recovery in the event of insufficiency of the amounts attached shall be established by the legislation of the U.S.S.R. and the Union Republics.

Article 58. *Execution of Judgements in Parts Relating to the Collection of Property, Compositions in Court, and Other Decisions and Orders*

Execution of judgements in parts relating to collection of property, court rulings and orders, compositions in court, awards of mediation boards, awards of maritime and foreign trade arbitration commissions, decisions of labour disputes commissions, decisions on labour disputes made by factory and office trade union committees; execution clauses issued by notarial offices;

and also decisions of arbitral agencies and other decisions and orders in the cases provided for by law shall be effected in the manner established for the execution of court judgements.

## PART VI

### **CIVIL PROCEDURAL RIGHTS OF ALIENS AND STATELESS PERSONS.**

#### **SUITS AGAINST FOREIGN COUNTRIES.**

#### **LETTERS ROGATORY AND JUDGEMENTS OF FOREIGN COURTS.**

### **INTERNATIONAL TREATIES AND AGREEMENTS**

#### *Article 59. Procedural Rights of Aliens, and Foreign Enterprises and Organisations*

Aliens shall have the right to apply to the courts of the U.S.S.R. and shall enjoy civil procedural rights equally with Soviet citizens.

Foreign enterprises and organisations shall have the right to apply to the courts of the U.S.S.R. and shall enjoy procedural rights for the protection of their interests.

The Council of Ministers of the U.S.S.R. may impose retaliatory disabilities on citizens, enterprises and organisations of countries allowing special limitations on the civil procedural rights of Soviet citizens, enterprises or organisations.

## Article 60. *Civil Procedural Rights of Stateless Persons*

Stateless persons resident in the U.S.S.R. shall have the right to apply to the court and shall enjoy civil procedural rights equally with Soviet citizens.

## Article 61. *Suits Against Foreign Countries. Diplomatic Immunity*

Filing of a suit against a foreign country, securing collection of a claim and attachment of property of a foreign country located in the U.S.S.R. may be permitted only with the consent of the competent organs of the country concerned.

Diplomatic representatives of foreign countries accredited in the U.S.S.R. and other persons specified in relevant laws and international agreements shall be subject to the jurisdiction of the Soviet court in civil cases, only within the limits determined by the rules of international law or agreements with the countries concerned.

Where a foreign country does not accord the Soviet state, its representatives or its property the same judicial immunity which, in accordance with the present Article, is accorded foreign countries, their representatives or their property in the U.S.S.R., the Council of Ministers of the U.S.S.R. or other authorised organ may impose retaliatory measures in respect of that country, its representatives or the property of that country.

Article 62. *Execution of Letters Rogatory from Foreign Courts and Presentation of Letters Rogatory by the Courts of the U.S.S.R. to Foreign Courts*

The courts of the U.S.S.R. shall execute letters rogatory requesting performance of several procedural acts (service of summons and other instruments, interrogation of parties and witnesses, performance of expertise and view of the premises, etc.), presented to them in the established manner by foreign courts, with the exception of cases where:

1) performance of the request would contradict the sovereignty of the U.S.S.R. or jeopardise the security of the U.S.S.R.;

2) performance of the request is outside the jurisdiction of the court.

Letters rogatory from foreign courts requesting performance of several procedural acts shall be executed on the basis of Soviet legislation.

The courts of the U.S.S.R. may present letters rogatory to foreign courts requesting performance of several procedural acts. The procedure governing relations between Soviet and foreign courts shall be determined by the legislation of the U.S.S.R. and the Union Republics and by international agreements of the U.S.S.R. and the Union Republics.

Article 63. *Execution in the U.S.S.R. of Judgements of Foreign Courts and Arbitration Boards*

The procedure governing execution in the U.S.S.R. of judgements of foreign courts and arbitration boards shall be determined by relevant agreements between the U.S.S.R. and foreign countries or by international conventions of which the U.S.S.R. is a signatory. Judgements of foreign courts or arbitration boards may be presented for compulsory execution in the U.S.S.R. within three years from the date the judgement has become final.

Article 64. *International Treaties and Agreements*

Where the international treaty or international agreement to which the U.S.S.R. is party establishes other rules than those contained in the present Fundamentals, the rules of the international treaty or international agreement shall apply.

The same provision shall apply in the territory of a Union Republic where an international treaty or international agreement to which the Union Republic is party establishes other rules than those provided for by the legislation on civil procedure of the Union Republic.

## REQUEST TO READERS

*Progress Publishers would be glad to have your opinion of this book, its translation and design and any suggestions you may have for future publications.*

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